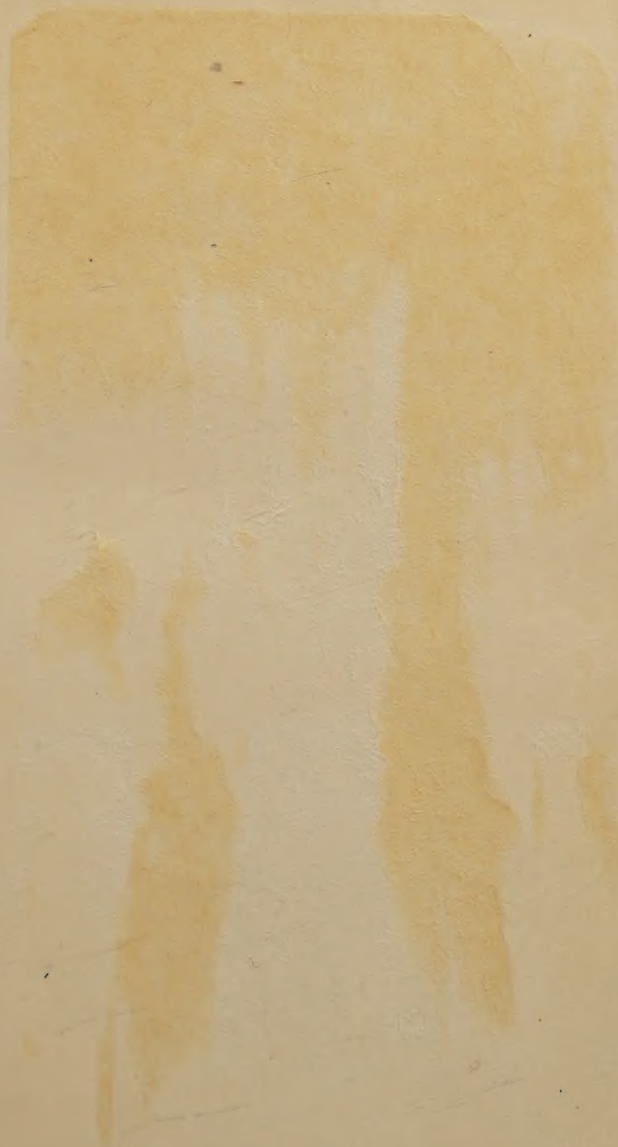




Mayflower 169





W. L. MacKinnon.

THE

LIFE AND TIMES

OF

WM. LYON MACKENZIE.

WITH AN ACCOUNT OF THE CANADIAN REBELLION
OF 1837, AND THE SUBSEQUENT FRONTIER
DISTURBANCES, CHIEFLY FROM UN-
PUBLISHED DOCUMENTS.

BY

CHARLES LINDSEY

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INTRODUCTION

A VERY general impression prevails throughout Canada that the late William Lyon Mackenzie had, for some years, been engaged in writing his autobiography; and that, at the time of his death, the work was nearly completed. An examination of his papers showed that such was not the case. He had indeed projected such a work, and arranged much of the material necessary for its construction. The foundation had been dug; but the first stone of the superstructure had not been laid. About his intention, or rather his desire, there can be no doubt. He had made known to all his friends that he had laid out this work for himself; and even his own family were under the impression that he had made considerable progress in its execution. But on examining his papers, I soon discovered that, except detached and scattered memoranda, he had written nothing. Of autobiography, not previously written when some momentary exigency seemed to demand it, or fancy spurred him to put down some striking passage in his life, there was nothing. Beyond this, every thing had to be done by his biographer, if his life was to be written; and such was the public curiosity to learn the connected story of his eventful life, that I was pressed, on all hands, to undertake the work. At great inconvenience, and under a pressure of other exacting literary engagements, I consented.

A vast mass of materials was put into my hands. Although it had been subjected to a certain system of arrangement, I did not always readily discover the key to the connection. The general plan of reference was very simple. Take fifty commonplace books numbered, by pages, up to seven thousand, with an index of subjects, and you are furnished the same facility of reference as to a ledger. It is required to find all the available information on any particular subject. Under the proper head in the index, we are directed, let us suppose, to page 6,059. We find a book numbered "6,001 to 6,062." It will therefore contain the intermediate number required. On opening at the page indicated, we find a number of manuscripts, letters, leaves from pamphlets, and cuttings from periodicals, intermingled with written notes on slips of paper, cut to the exact size necessary to contain the observations noted. All these papers are left loose for facility of removal.

So far all is plain sailing. Deficiencies, I soon found, had to be supplied; and I was sometimes puzzled to see the connection of documents lying entombed between the same pages. One subject runs into another; and to exhaust the available information on any one point, an endless number of references and comparisons had to be made. Some twenty years of newspaper files had to be carefully read. To give an idea of the mass of materials with which I had to deal, it will suffice to say that the Navy Island correspondence alone, occupying a single page of one of fifty-five commonplace books—and there is a second series with a second index—would make a large printed volume.

These facts are characteristic of the methodical habits of the man whose life is, however imperfectly, delineated in this work.

Full of the fiery energy of the Celtic race; impetuous and daring; standing in the front rank of party combatants, in times and in a country where hard knocks were given and taken, it was the fate of Mr. Mackenzie to have many relentless enemies. If I had undertaken to refute all the calumnies of which he was the subject, and to correct all the false statements made to his

injury, this biography would have taken a controversial form, which must have rendered it less acceptable to a large class of readers. The plan I have followed has been to tell the story of his life as I find it, without much reference to what friends or enemies, biased one way or the other, may have said under the excitement of events that have now passed into the great ocean of history. There were some few cases in which it was necessary to clear up disputed questions, over which men still continue to differ.

The striking want of moral courage in many who were engaged with Mackenzie in the unfortunate and ill-advised insurrection, in Upper Canada, in 1837, led them to attempt to throw the odium of an enterprise that had failed in its direct object entirely upon him. Men, of whose complicity in that affair the clearest evidence exists, cravenly deny all knowledge of it. Mackenzie never shrank from his share of the responsibility. He lived to see and admit the error of the movement, and to express deep regret for the part he had taken. But an enterprise which cannot be justified, and the engaging in which involved him in ruin, was in the end advantageous to the country. Much of the liberty Canada has enjoyed, since 1840, and more of the wonderful progress she has made, are due to the changes which the insurrection was the chief agent in producing. Unless those changes had been made—unless a responsible government especially had been established—Canada would ere now either have been lost to the British Crown; or, ruled by the sword, it would have been stunted in its growth, its population poor, discontented, and ready to seek the protection of another power. The amelioration which the political institutions of Canada have undergone would probably have come in time, if there had been no insurrection; but it would not have come so soon; and there is no reason to suppose that the Province would yet have reached its present stage of advancement.

Being several thousands of miles distant when the insurrection and the frontier troubles took place, and having never been in

Canada till several years after, I lay under the disadvantage of not having any personal recollection of what occurred in those stirring times. But considering the stores of materials and the sources of information at my command, perhaps this is no great loss; certainly it will be more than compensated by the impartiality with which an unconcerned spectator can pass in review the events of that troubled period.

In the private documents in my possession, containing the secret history of the frontier movements, I found much that had never seen the light; including projects of invasion and insurrection, of which the public has never had more than the vaguest notions. The use I have made of these documents will, I presume, not be regarded as unwarranted.

I first saw Mr. Mackenzie, in 1849, when he came from New York to Canada, on a visit. Our differences of opinion on the politics of Canada during the last ten years have been notorious. Still I knew his real views perhaps better than any one else. In private he never concealed his hand to me, during the whole of that time. By the hour, when no third person was present, he would speak with great earnestness and animation on the claims of justice, the odiousness of oppression, and the foulness of corruption. The offer of office under the Government was more than once obliquely—once, I think, directly—made to him after his return to Canada, and it always threw him into a fit of passion. He received it as an attempt to destroy his independence or to shackle his freedom of action. A thousand times I have heard him protest that he would rather die of starvation than descend to any meanness, or be guilty of any act that would deprive him of that title to an unpurchasable Patriot, which he deemed the best heritage he could bequeath to his children.

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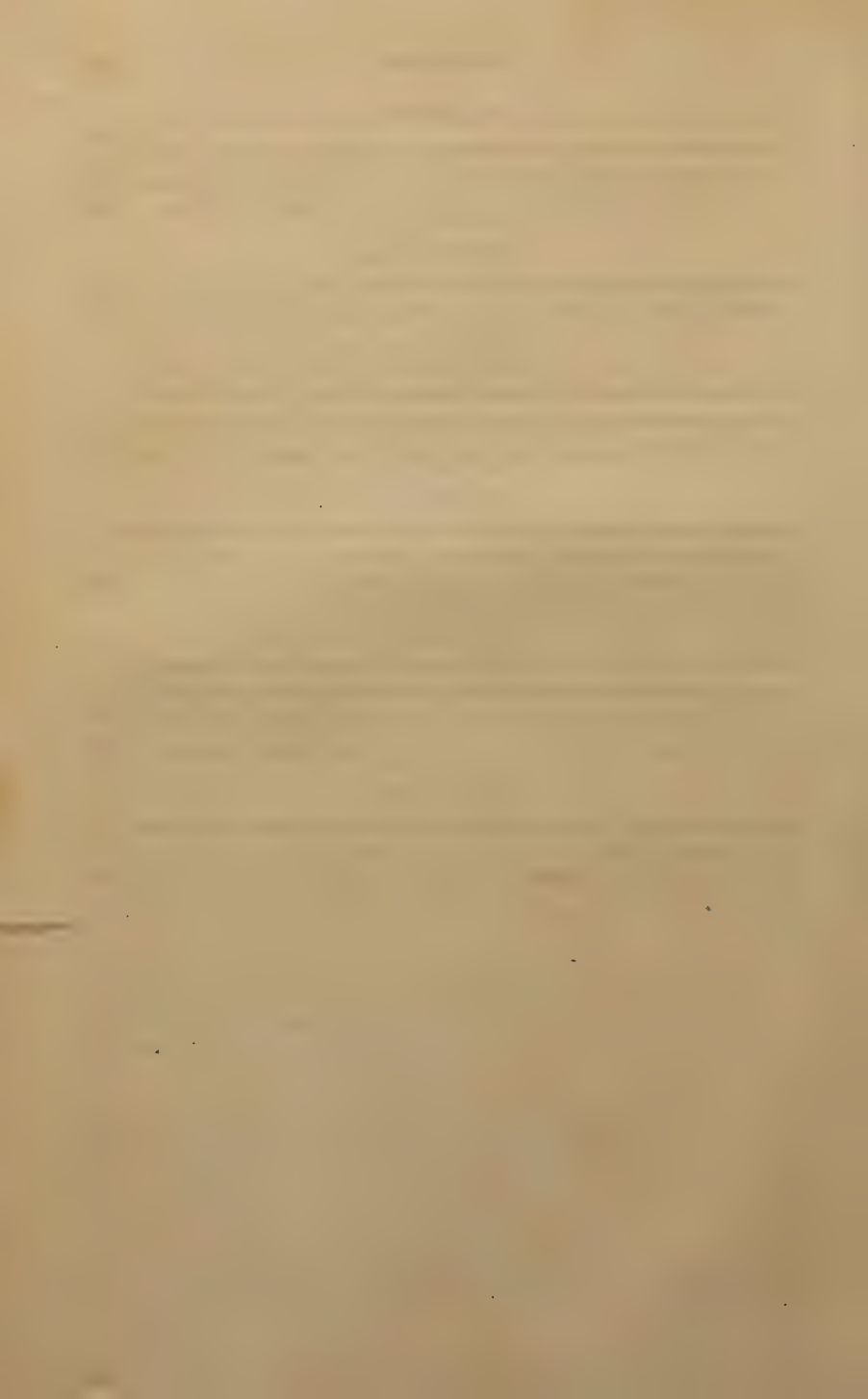
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LIFE

OF

WILLIAM LYON MACKENZIE

CHAPTER I.

General Remarks—Mackenzie's Parents—His Birth—School Days—Youth—Characteristic Incidents—Religious Instruction imposed by his Mother—The Books he read.

FEW men who have led a life of great mental activity long survive the abandonment of their accustomed habit of labor. Nor was it different with Mr. Mackenzie. When he resigned his seat in the Legislative Assembly, in 1858, few of his colleagues were equal to the endurance he underwent. It was no uncommon thing for him to burn the midnight oil till streaks of gray were visible in the eastern horizon. He would do this three or four nights in the week. He could jump as high, and run as fast, as the youngest and the most athletic member of the House. Every one thought there were still left many years of wear in his slender but wiry frame; but the seeds of mortality had been already sown in his system. As a steam engine of disproportionate size shakes to pieces the too frail vessel in which it is

placed, his ponderous brain, overworked with long years of mental toil, wore out the bodily frame. Nor did the brain itself escape the penalty of over-exertion. Loss of memory was the first symptom of the brain-softening thus superinduced. Violent pains in the head, accompanied by the refusal of the stomach to perform its accustomed functions, followed. For the last two years of his life, he failed more rapidly than his most intimate friends were able to realize. In his declining health, pecuniary embarrassments threw a gloom over the latter days of his existence. Whether he was himself aware of the extent to which his health had failed, that the iron frame was so far shaken and debilitated as it was, it is impossible to say. His tenacity of life would probably prevent him from admitting to himself the true state of the case; and though he often spoke of the decline of his strength, he generally did so by way of inquiry and with a view of eliciting the opinion of others on the subject. It was a point on which he was morbidly sensitive; and the last time he was out, before being confined to his death-bed, he inquired anxiously of one of his daughters whether people remarked that he was failing. When he did so, he drew himself up in a more erect posture and walked with a show of unwonted firmness, as if desirous to disprove an impression that he dreaded. Relying on the extraordinary strength of his constitution, he promised himself, in his moments of flickering hope, many years of life. But at length he became weary of battling the world, and was anxious to lie down to rest.

The public probably fancied that the Homestead

subscription had given him some degree of ease in his worldly circumstances ; but the truth was that beyond the house in which he lived and died, the product was very little, and when that little was exhausted, he found himself without an income. It is doubtful whether the paper he published, *The Weekly Message*, ever yielded any profit ; and he was finally compelled to abandon its publication. After this, he lived on borrowed money, obtained at usurious rates, upon the endorsement of political friends. When at last, he had to battle with despair, he ceased to desire to prolong the painful endurance of life. One day he remarked to some members of his family, that though he would not destroy the life that God had given him—that he had no right to do so—he cared not how soon it might please the Author of existence to take back the life that he had given. He died heart-broken with disappointment, as much as of brain-softening ; died because he no longer knew where to find the means of existence, and because his proud spirit forbade him to beg. From his most intimate friends, who might have helped him, he concealed the embarrassments of his pecuniary position.

Such were the causes of the death of this extraordinary man, whose powers of agitation, at one period of his life, gave him an almost absolute command over the masses in his adopted country. When he had ceased to be able to speak or write, he seemed much concerned for his family ; and placed the hand of the mother of his children in mine, as if to commend her to my protection. It seemed his last hope and his last wish.

In writing his biography, it will be my duty, as far as convenient, to allow him to tell his own tale; and where opinions must be expressed, it will be my aim to make them judicial and just, though I may not conceive that he was always right, either in act or opinion. In this spirit and with these feelings, I begin this tale of shipwrecked hopes and overwhelming disappointments.

Under the head "Mackenzie,"* I find among Mr. Mackenzie's papers several slips of memoranda, going over a long story of pedigrees. On reading them my curiosity was excited to see whether he was going to give point to the recital by tracing his own descent from some of the ennobled members of his family name; but the conclusion somewhat brusquely excluded any claim of this kind. According to what was long the orthodox method of writing history, he derived the Mackenzies from Noah; but with this difference, that, instead of pretending to complete the chain, he made a safe assumption of the fact.

Mr. Mackenzie's parents were married at Dundee on the 8th of May, 1794, by the Rev. Mr. Macewen.†

* "This ancient family," writes Mr. Mackenzie, "traces its descent from the House of Gerald, Ireland, (whence sprung some of the noble families of Leinster, Desmond, etc..) a member of which and his followers settled in Scotland about 1261, and was created Baron of Kintail. His name was Carlinus Fitzgerald, First Baron of Kintail. He married a daughter of Walter, High Steward of Scotland; was succeeded by his son Kenneth; who again was succeeded by a son of the same name, Third Baron of Kintail, called in Gaelic, Kenneth Mackenneth, which in English was pronounced Mackenzie Mackainzie; and hence (says Burke's peerage) arose all the families of Mackenzie, in Scotland."

† The following entry is copied from an old family Bible:

Daniel Mackenzie and Elizabeth Mackenzie, both natives of Kirkmichael, Perthshire, Scotland, were married at Dundee, by the Rev. Mr. Macewen, on the 8th of May, 1794.

Of this marriage William Lyon Mackenzie, the object of this biography, was the sole issue. He was born at Springfield, Dundee, Scotland, on the 12th of March, 1795;* and his father died when the child was only twenty-seven days old.† His death was brought on by a cold contracted at a dancing party; and during his illness, which lasted only a few days, he suffered severely from a violent pain in the head. The knowledge of this circumstance caused the son, throughout his life, to dread the severe pains in the head with which he was occasionally afflicted, at long intervals, and generally after great and long continued mental exertion. What he had dreaded all his life came upon him before his death. For several weeks he complained of increasing and almost constant pains in the head. At all times, when they occurred, they had been extremely violent; and in his last illness, but chiefly before he took to his bed, or had ceased to struggle against the disease, they were the cause of intense suffering. The discrepancy between the ages of his parents was great; his father being only twenty-eight years old when he died; while his mother had seen forty-five summers when her only child was born.

His mother, by the death of her husband, who left

* William Lyon Mackenzie, born at Springfield, Dundee, Forfarshire, Scotland, March 12th, 1795. Baptized on the 29th by the Rev. Mr. Macewen, Seceder Minister.—*Entry in Family Bible.*

† Daniel Mackenzie died at Dundee on the 9th of April, 1795, leaving only one child, William Lyon, then twenty-seven days old.—*Entry in Family Bible.*

behind him no property of any account, became to a great extent dependent upon her relatives, of whom she had several in the Highlands; and she sometimes lived with one and sometimes with another. Some of them were poor, others well to do; and if it be presumed that she gave the largest share of her patronage to the latter, the former were probably not missed in their turn. At the same time she always managed, by some ingenuity of industry, to keep a humble home over the heads of herself and her boy. Her constitutional temperament always kept her busy, let her be where she might; her high nervous organization rendering inaction difficult to her, except towards the close of her life. In this respect, there was a remarkable resemblance between herself and her son; and from her, it may safely be affirmed, he derived the leading mental characteristics that distinguished him through life.

She was so small in stature as to be considerably below the average size of her sex. In complexion she was a brunette; her hair was dark-brown, till whitened by age, and at ninety it was as abundant as ever, and always long. Her dark eyes were sharp and piercing, though generally quiet; but when she was in anger, which did not often occur, they flashed out such gleams of fire as might well appall an antagonist. Her features, corresponding with her size, were small; and the prominence of her cheek-bones gave unmistakable indications of her Celtic origin. The small mouth and the thin, compressed lips, in harmony with the whole features, told of that unconquerable will which she transmitted to her son. The fore-

head was broad and high, and the face seldom relaxed into perfect placidity; there were always on the surface indications of the working of the volcanic feelings within. The subduing influences of religion kept her strong nature under control, and gave her features whatever degree of repose they ordinarily wore.

Her strong religious bias made her an incessant reader of the Scriptures and such religious books as were current among the Seceders. With this kind of literature she early imbued the mind of her son; and, it would not be difficult to show, the impressions thus formed were never wholly effaced. Though of Highland origin, she spoke Gaelic but rarely, it would seem, for she never imparted more than a very slight knowledge of it to her son. She cherished some plausible superstitions, firmly believing that a Mackenzie never died without warning of the coming event being given by some invisible messenger in a strange, unearthly sound, and had a strong suspicion that fairies were something more than myths. The strongest reciprocal affection existed between her and her son, at whose house she spent the last seventeen years of her life, having followed him to Canada, in company with Mr. J. Lesslie, in 1822, and died at Rochester, N. Y., in 1839, while her son was a state prisoner, in Monroe county jail, under sentence for a breach of the neutrality laws of the United States. She had attained the mature age of ninety years, a fact which goes to show that it was through her that Mr. Mackenzie inherited a physical frame capable of extraordinary endurance, as well as his natural mental endowments.

Daniel Mackenzie, father of the subject of this biography, is described as a man of dark complexion; and his grandfather Colin Mackenzie, used to bear the cognomen of "Colin Dhu," or black Colin. Daniel learned weaving in all its branches; but entering into an unprofitable commercial speculation, he was reduced to keeping a few looms for the manufacture of "green cloth."

But Mr. Mackenzie may here be allowed to tell his own tale of his ancestry. In June, 1824, just when he had entered on his editorial career, he was called upon to meet the charge of disloyalty; and his defence, which is in his happiest mood, shows how much better were his early compositions when youth was fresh and hope beat high, than those of his later days, when the pangs of disappointment had fastened upon his soul, and the great aims of his life had miscarried.

"My ancestors too stuck fast to the legitimate race of kings, and though professing a different religion, joined Charles Stuart, whom (barring his faith) almost all Scotland considered as its rightful sovereign. Colin Mackenzie, my paternal grandsire, was a farmer under the Earl of Airly in Glenshee, in the highlands of Perthshire; he, at the command of his chieftain, willingly joined the Stuart standard, in the famous 1745, as a volunteer. My mother's father, also named Colin Mackenzie, and from the same glen, had the honor to bear a commission from the Prince, and served as an officer in the Highland army. Both my ancestors fought for the royal descendant of their native kings; and after the fatal battle of Culloden, my grandfather accompanied his unfortunate prince to the low countries, and was abroad with him on the continent, fol-

lowing his adverse fortunes for years. He returned at length; married, in his native glen, my grandmother, Elizabeth Spalding, a daughter of Mr. Spalding, of Ashintully castle, and my aged mother was the youngest but two of ten children, the fruit of that marriage. The marriage of my parents was not productive of lasting happiness; my father, Daniel Mackenzie, returned to Scotland from Carlisle, where he had been to learn the craft of Rob Roy's cousin, Deacon Jarvie of the Saltmarket, Glasgow, or in other words, the weaving business, took sickness, became blind, and in the second year of his marriage with my mother died, being in his twenty-eighth or twenty-ninth year. I was only three weeks old at his death; my mother took upon herself those vows which our Church prescribes as needful at baptism, and was left to struggle with misfortune, a poor widow, in want and in distress. It is among the earliest of my recollections, that I lay in bed one morning during the grievous famine in Britain, in 1800-1, while my poor mother took from our large Kist (which is an article of furniture of a sort only to be found among the Scotch and Irish) the handsome plaid of the tartan of our clan, which in early life her own hands had spun, and went and sold it for a trifle, to obtain for us a little coarse barley meal, whereof to make our scanty breakfast; and of another time during the same famine, that she left me at home crying from want and hunger, and for (I think) 8s. sold a handsome and hitherto carefully preserved priest-gray coat of my father's to get us a little food. How the mechanics and laborers contrived to exist during these times, is

what I cannot tell; my recollections of this period are faint and indistinct. Well may I love the poor, greatly may I esteem the humble and the lowly, for poverty and adversity were my nurses, and in youth were want and misery my familiar friends; even now it yields a sweet satisfaction to my soul, that I can claim kindred with the obscure cottar, and the humble laborer, of my native, ever honored, ever loved Scotland.

“Long may thy hardy sons of rustic toil
Be blest with health, and peace, and sweet content!”

“My mother feared God, and he did not forget nor forsake her: never in my early years can I recollect that divine worship was neglected in our little family, when health permitted; never did she in family prayer forget to implore that He, who doeth all things well, would establish in righteousness the throne of our monarch, setting wise and able counsellors around it. A few of my relations were well to do, but many of them were poor farmers and mechanics, (it is true my mother could claim kindred with some of the first families in Scotland; but who that is great and wealthy, can sit down to count kindred with the poor?) yet amongst these poor husbandmen, as well as among their ministers, were religion and loyalty held in as due regard, as they had been by their ancestors in the olden time. Was it from the precept—was it from the example of such a mother and such relations, that I was to imbibe that disloyalty, democracy, falsehood, and deception, with which my writ-

ings are by the government editor* charged? Surely not. If I had followed the example shown me by my surviving parent, I had done well; but as I grew up I became careless, and neglected public and private devotion. Plainly can I trace from this period, the commencement of these errors of the head, and of the heart, which have since embittered my cup, and strewn my path with thorns, where at my age I might naturally have expected to pluck roses.

“Earnestly did my mother desire me to honor my heavenly King, to remember my Creator in the days of my youth, and I at this distant day have much greater cause to regret the little attention I then paid to her well meant admonitions in that respect, than to take blame to myself for either thinking or speaking disrespectfully of our anointed sovereign. The celebrated traveller, my namesake, Sir Alexander Mackenzie, died on the same month on which I was born, and just a quarter of a century thereafter. I came into existence the 12th of March, 1795; he left the world the same date, 1820; he was no kinsman of mine, but he was a Mackenzie, and if I can spread the fame of *The Advocate*† to regions as far west as to where he travelled, I shall be very well satisfied, whether Sir Thomas gets his copy or not.”

His first school-teacher was Mr. Kinnear, of Dundee, who was master of a parish school. One of his school-mates,‡ from whom I have sought information,

* Mr. Charles Fothergill, editor of the *Upper Canada Gazette*, then published in Toronto, and King's Printer. The *Gazette*, like the *Moniteur* of Paris, had an official and a non-official side.

† The name of the first newspaper he published.

‡ Mrs. Reid, of Rochester, N. Y.

describes him as a "bright boy, with yellow hair, wearing a blue short coat with yellow buttons." The school-house, large and well lighted, had previously been a Catholic chapel. The stone basin, placed in a niche in the wall, which had formerly been a repository of "holy water," was now converted into a seat of punishment, called the "holy cup." Though very small when he first entered, Willie, as he was called, was generally at the head of his class. His progress in arithmetic, particularly, was very rapid. He was often asked to assist other boys in the solution of problems which baffled their skill; and while he rendered this service, he would pin papers or draw grotesque faces, with chalk, on their coat backs. "He was ever ready," says my informant, "to help the girls, particularly if they were good looking." Even then his power of declamation was considerable, and on one occasion the school was made a scene of uproar and confusion, on his account; the scholars shouting at the top of their voices and hissing at the master. The thing happened in this wise.

One day he went into the master's closet, donned the fool's cap, and with the long leather taws tied a canvass sack round his shoulders, and then, with birch in hand, he took his seat on the "holy cup," to the great amusement both of the boys and girls. While thus seated, making grotesque faces and speechifying, in walked the dominie, a man six feet eight and proportionably stout, just when the mirth was at its height. Though boiling over with rage, Mr. Kinnear could hardly escape the contagion of the general laughter. When angry, his face was any thing but prepossess-

ing. Little Willie saw the danger and attempted to escape; but he came back at the demand of the angry voice of the excited dominie. The crime of going into the sacred apartment of the master must be visited with condign punishment. Willie's hand being held out was touched with a small brush, dipped in whitening, made from "calmstone," and then struck with the taws twelve times, till his face was all spotted over. Then he was conducted back to the holy cup. This exhibition excited the indignation of the larger boys, who hissed and shouted, till a scene of perfect confusion was created, in the midst of which some, who were particularly conspicuous in their demonstrations, were seized by the indignant dominie, and imprisoned in a small room; by which means peace was restored. Willie was ordered to go to the master's house next day; whence, after being detained a few minutes, he returned with his face as radiant as ever. When the dominie's back was turned, he made such grimaces as he alone could make. Young Mackenzie's overpowering sense of the ridiculous, which on this occasion he tried to excite in others, adhered to him through life. After leaving Mr. Kinnear's school, he went to that of Mr. Adie; but how long he spent there cannot be ascertained.

At the age of ten years, some difficulty occurring between him and his mother, he resolved to leave home, and set up on his own account. For this purpose he induced some other boys, of about his own age, to accompany him to the Grampian Hills, among which he had often been taken, and where, in a small castle which was visible from Dundee, and of which

they intended to take possession, they made the romantic resolve of leading the life of hermits. They never reached the length of the castle, however, and after strolling about a few days, during part of which they were terribly frightened at the supposed proximity of fairies, they were glad to trudge their way back to the town, half famished. This incident is characteristic, and might have been regarded as prophetic; for the juvenile brain that planned such enterprises would not be likely to be restrained, in after life, where daring is required. In it we see the same impatience of restraint that impelled Captain John Smith, best known by his association with Pocahontas, to sell his books and satchel, when a mere urchin, with a determination to steal away to sea.

It is probable that the difficulty between young Lyon and his mother, which led to this escapade, arose out of the long reading tasks which it was her custom to impose upon him. He was in this way thoroughly drilled in the Westminster Catechism and Confession of Faith; he got the Psalms and large portions of the Bible by rote, and was early initiated into "Baxter's Call to the Unconverted," and several similar works. When one of these tasks had been given him, his mother used to confine him closely till it had been mastered. That he sometimes felt these reading tasks to be irksome is known from his own statements; and his idea, in mature life, was that the thing had been overdone. This early exercise of the memory, it may be reasonably assumed, tended to give to that faculty the strength which in after life was a source of astonishment to many. Perhaps,

however, those who did not know Mr. Mackenzie's personal habits often attributed to his unaided memory much that was the result of reference to those stores of information which he never ceased to collect, and which were so arranged as to admit of easy access at any moment. It would be a mistake to suppose that the large amount of religious reading he was compelled, at an early age, to go through gave him a distaste for that kind of literature. On the contrary, what had been imposed as a task seems to have become, in time, a pleasure, if we may judge by the list of theological works which he voluntarily read between the ages of eleven and twenty-four years. He has left in his own hand-writing a list of "some of the books read, between the years 1806 and 1819, by W. L. Mackenzie,"* in which are fifty-four works under the head of "Divinity," one hundred and sixty-eight on History and Biography, fifty-two of Travels and Voyages, thirty-eight on Geography and Topography, eighty-five on Poetical and Dramatic Literature, forty-one on Education, fifty-one on Arts, Science, and Agriculture, one hundred and sixteen Miscellaneous, and three hundred and fifty-two Novels; making, in all, nine hundred and fifty-eight volumes, in thirteen years. One year he read over two hundred volumes. Here the list ends, and it may be taken for granted Mr. Mackenzie's reading of books became less after 1824, when he got immersed in politics, and

* See Appendix A. The number of books read was thus distributed over the different years:—In 1806–7, 89 vols.; 1808–9, 204 vols.; 1810, 79 vols.; 1811, 52 vols.; 1812–13, 61 vols.; 1814–15, 198 vols.; 1816, 48 vols.; 1817, 63 vols.; 1818, 49 vols.; 1819, 88 vols.; 1820, 27 vols.

had a newspaper to conduct. It is not often that the world is enabled to see, at a glance, the stores of information by which the mind of a remarkable man has been enriched and modified; and it is peculiarly fortunate that a catalogue has been preserved, in this case. With his tenacious memory, Mr. Mackenzie must have been enabled to draw, from time to time, upon these stores, during the rest of his life. The works are confined almost exclusively to the English language; and the truth is, that he had only an imperfect knowledge of any other. Otherwise there is little reason to object to the want of variety, and there does not appear to be any reason why they should have given any undue bias to the mind. Of a tendency to scepticism, of which he was accused in the latter part of his life—with what justice will hereafter be seen—there is, in the works which must have tended to give a cast to his mind, an almost entire absence.

In whatever occupations young Mackenzie was engaged, from the period of his leaving school to his coming to Canada, the facts already stated show that he was constantly storing his mind with varied information. His mother used to tell how, when a little boy, he would read till after midnight—different books it may be presumed from those in which his daily tasks were set—till she thought “the laddie would read himsel’ out o’ his judgment.”

In early youth, politics already possessed a charm for him; the Dundee, Perth, and Cupar *Advertiser*, the first newspaper he ever read, serving to gratify this inclination. But he was soon admitted to a

wider range of political literature; for he was introduced to the Dundee news-room, at so early a period of life that he was for years after its youngest member.

The adventurous life of a sailor had, at one time, strong fascinations for him. His own account of this boyish fancy runs: "When a little fellow at school, I had at one time a strong inclination for the sea, and used after school-hours, or between them, to accompany some of my playmates to the pier, and wage marbles which of us could soonest double the cap, pass the double cross-trees, and turn this vessel's vane. I well remember that I won more marbles than I lost in this way; and when I went on board the venerable ship, tight and in good condition as she still remains, and had fairly recognized my old acquaintance, I felt a mingled sensation of pain and pleasure, at the recollection of the past."* His venturesome habits, when a boy, once nearly lost him his life. With a courage above his skill, he plunged into the waters of the Tay, making an effort to swim, and sank twice before he was rescued.

* This was in 1833, when he revisited his native town.

CHAPTER II.

Young Mackenzie is employed in a Draper's shop—Then in the Counting House of Mr. Gray, of Dundee—Meets Dr. Chalmers before he had emerged from obscurity—Starts business at Alyth, near Dundee, when under age, and fails—Goes to England—Certificate of the Minister and Session Clerk of Alyth—Becomes Clerk to the Kennett and Avon Canal Company in England—Seeks employment in London—The resolution to go to Canada—First visits France.

FOR a short time after leaving school, and when he must have been a mere boy, he was put into Mr. Henry Tulloch's draper's shop, High Street, Dundee; but disliking the situation, he did not long remain there; probably only a few months.

He afterwards became an indentured clerk in the counting house of Gray, a wood merchant, in a large way of business, in Dundee. Mr. Mackenzie's papers relating to the early part of his life were, with others, placed with some friend in the country, at the time of the rebellion; but the custodians, of what might be dangerous documents, got alarmed on the execution of Lount and Matthews for high treason, and they committed the papers to the flames. It becomes more difficult, for this reason, to fix dates with precision at this period of his life. Of Mr. Gray, Mr. Mackenzie was in the habit of speaking in the highest terms. In a letter, dated Dundas, March 16,

1850, he said: "Mr. Gray, an excellent man, was one of my earliest and best friends. I was then a clerk in his counting room, under indenture for a term of years, and well remember going over occasionally to his brother-in-law's, at Kilmany, in Fife, where I first saw Dr. Chalmers, then about thirty years old, and living in comparative obscurity. He appears to have been deeply impressed, while at Kilmany, with the benefits conferred upon society by the religious instruction of youth at Sunday Schools. Chalmers was no ordinary man, but truly great and good." It was probably while in the counting house of Mr. Gray that Mr. Mackenzie acquired that knowledge of the mysteries of accounts, which afterwards made his services of considerable value as Chairman of the Committee of Public Accounts, in the Legislative Assembly of Canada, and which has enabled him to render important service in the Welland Canal investigation, and on other occasions, when financial mysteries had to be solved.

At an early age, apparently when he was about nineteen, he went into business for himself at Alyth, some twenty miles from Dundee, setting up a general store, such as is kept in country places, in connection with a circulating library. He remained here for three years, when the result of inexperience assumed the shape of a business failure. His creditors were all honorably paid after he had acquired the necessary means in Canada, at the distance of some years.

It was about the middle of May, 1817, when he left Alyth; and he soon afterwards went to England. The time when he went to Alyth and when he left is fixed

by a certificate, signed by the minister and the clerk of session at that place, written shortly before his departure for Canada :

“ALYTH, *March 30, 1820.*

“That the bearer, Lyon Mackenzie, resided in this Parish about three years preceding Whitsunday, eighteen hundred and seventeen, when he removed from this Parish, without anything known to us, at his removal hence, to prevent him from being admitted into any Christian Society, or partaking of Church privileges, is attested by

“WM. RAMSAY, Minister.

“EDW. PATERSON, Session Clerk.”

Young Mackenzie afterwards, leaving his native Scotland, crossed to the South of the Tweed ; where at one time we find him filling the situation of Clerk to the Kennett and Avon Canal Company,* at another

* The following summons proves him to have been in the employment of this Company in October, 1818; which was eighteen months before he sailed for Canada.

<p>WILTSHIRE, TO WIT.</p>	}	<p><i>To all Constables, Tythingmen, and others, His Majesty's Officers of the Peace in and for the said County, whom these may concern, any or either of them.</i></p>
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THESE are in His Majesty's Name, to will and require you, on Sight hereof, to summon David Slowly, Captain of the boat No. 6, Euclid Shaw, of Bath, owner, personally to be and appear before me, and such other of his Majesty's Justices of the Peace for the said County of Wilts as shall be present at the Town Hall in Devizes, in the said County, on Tuesday, the Tenth day of November next, at eleven of the clock in the forenoon, to answer to what is and shall be on His Majesty's Behalf objected against him by *William Lyon Mackenzie, Clerk to the Kennett and Avon Canal Company*, for having, on the third of October instant, offended against the eleventh article of the said Company's Bye-Laws, by carrying shafts and poles constructed contrary to the same. And you are to attend at the time and place above appointed for the appearance of the said parties, and to make return of this precept and of the execution hereof.

Herein fail not at your perils. Given under my Hand and Seal, the tenth day of October, in the fifty-eighth year of the reign of our Sovereign Lord

time in London; and he used to relate that he was for a short time in the employ of Ear Lonsdale, as a clerk.

In the autumn before he left for Canada, our future emigrant was in London, where he appears to have been either without employment or not to have been so satisfactorily engaged as to preclude the desire of a change. A correspondence took place between him and a Mr. Wm. Dunsford, who held an office in a Canal Company's office, at Swindon, Wiltshire. There was a question of the Company establishing a Gauging Dock; and if this was done, Mr. Mackenzie was to be recommended for an office in connection with it. The Committee of Directors, with whom the decision would rest, was not to meet till December, 1819; and whatever was the result at which they arrived, Mr. Mackenzie was destined to cross the Atlantic and become a resident of Canada next Spring. Mr. Dunsford, in October, writes in a friendly, if not very encouraging tone,* and adds a postscript, asking to borrow the for-
GEORGE the Third, by the Grace of God of the United Kingdom of Great Britain and Ireland King, and in the year of our Lord, 1818.

HENRY BAYNSTON.

* CANAL OFFICE, SWINDON, October 18, 1819.

SIR:—I received your letter of the 15th yesterday, and am sorry you have not succeeded in making an arrangement with the K. & A. Co., to allow us the use of their Tables. I do not expect that Mr. Thomas will communicate with me on the subject. The very *liberal* ideas of that gentleman as to the neighboring Canals, as you represented them to me, forbid the hope of such an accommodation.

I therefore look forward to the time when the Companies for whom I am concerned will be able to set on foot an establishment of their own for the purpose, and it shall not be my fault if this is delayed a moment after the necessary means can be procured; but you are aware that such a thing cannot be effected in a moment, and that before the expenditure of at least £700 or £800

mula of certain gauging tables belonging to Mr. Mackenzie.

That he was probably without employment, and was certainly in search of an occupation, in October, 1819, appears from Mr. Dunsford's letter; and as he conceived he had not met with fair usage, it is probable that it was not long after this time when he resolved to sail for Canada the next Spring. He appears then to have only just left Swindon and the Kennett and Avon Canal Company; for Mr. Dunsford, at that date, mentions the failure of Mr. Mackenzie's attempt to effect a certain arrangement with his employers to allow their Gauging Tables to be used by another Company. This occurrence must have been of recent date; and it is probable that Mr. Dunsford replied as soon as he learned from Mr. Mackenzie the result of the application, which may be presumed to have been made before the latter left the service of the Canal Company.

can be resolved upon, the Committee will require time for deliberation. Their next meeting is not till the middle of December, and until that time, all that I can say is, that in the event of their determining on a Gauging establishment, I should not hesitate to recommend you to their notice, being perfectly satisfied of your competency for the business, and not doubting the testimonials you could bring to your character. I will further add that the salary you expect would not be objected to, together with a comfortable house for your residence. Under these circumstances, it appears to me that you had better not omit *any* favorable appointment that may offer for your settlement; but should you not be better provided, in the event of our building a Gauging Dock, upon your favoring me with your future address when convenient, I will not fail to remember you; and wishing you the success you appear to deserve, and better usage than you say you have had,

I remain your obedient servant,

WILLIAM DUNSFORD.

If you feel no objection to sending me the formula of your Gauging Tables, I should be obliged, as it would assist me in explaining the system to our Committees better than my memory will serve.

The idea of going to Canada is said to have been first suggested to Mr. Mackenzie by Mr. Edward Lesslie, of Dundee. He was elated at the prospect which the New World held out to him, and gave expression to his hilarity in a demonstrative manner.

Before starting for Canada, he visited France. The date of this visit cannot now be fixed with certainty; but it was probably in November or December, 1819.

He confesses to having, a little before this time, plunged into the vortex of dissipation and contracted a fondness for play. But all at once, he abandoned the dangerous path on which he had entered, and after the age of twenty-one never played a game at cards. A more temperate man than he was, for the rest of his life, it would have been impossible to find.

CHAPTER III.

Sails for Canada in the *Psyche*—Personal Appearance—Is connected with the Lachine Canal Survey—Enters into the Book and Drug Business in York—Afterwards in Dundas—The Partnership with Lesslie Dissolved—Starts a separate business in Dundas—Removes to Queenstown—Abandons Mercantile Business for Politics—The First Office that he is Elected to is that of School Trustee.

IN April, 1820, there was among the passengers of the *Psyche*, bound for Canada, and commanded by Captain Thomas Erskine, a young man just turned twenty-five years of age, born of poor Scottish parents; whose mother, widowed in his infancy, had sometimes been at a loss to find the plainest food for his nourishment; a young man who had been a clerk in a counting house, at Dundee; who had tried mercantile business on his own account, in a small Scottish market town, and failed; who had held a clerkship under a company and a nobleman in England; who, without having enjoyed any other advantage of education than the parochial and secondary schools of Dundee offered, had a mind well stored with varied information which he had devoured with the appetite of a literary glutton; who was so little known that his departure from his dear native soil excited no public interest or attention. Yet was it fated that this young man should change the destiny of the country

to which the good ship *Psyche* was bearing him. He was of slight build and scarcely of medium height, being only five feet six inches in stature. His massive head, high and broad in the frontal region and well rounded, looked too large for the slight wiry frame it surmounted. He was already bald from the effects of a fever. His keen, restless, piercing blue eye, which threatened to read your most interior thoughts, and the ceaseless and expressive activity of his fingers, which unconsciously opened and closed, betrayed a temperament that could not brook inaction. The chin was long and rather broad; and the firm-set mouth indicated a will which, however it might be baffled and thwarted, could not be subdued. The lips, firmly pressed together, constantly undulated in a mass, moving all that part of the face which lies below the nostrils; with this motion the twinkling of the eyes seemed to keep time, and gave an appearance of unrest to the whole countenance. The deep dimples in the cheeks, exaggerating the protuberance of the cheek bones, were connected by a strongly marked sunken line which shot up to about half the height of the nose, and left a slight ridge which ran at right angles with the upper part of the cheek bone. The centre of the nose at the base protruded a rounded point below the orifice of the nostrils. The deep-set eyes were overarched by massive brows, which threw the forehead a little out of its perpendicularity, and which alone gave it the least receding angle. This assemblage of features will at once be seen to have been striking and characteristic. They were almost constantly animated by a flow of spirit which put the

rest of the passengers in good humor; for the hope of youth deceptively painted with its roseate views that future which, to the young Dundee emigrant, was to be beset with so many difficulties, bestrewed with thorns, and watered with tears of blood.

After his arrival in Canada, Mr. Mackenzie was for a short time employed in connection with the survey of the Lachine Canal; but it could only have been a few weeks, for in the course of the summer he entered into business in York, as the present city of Toronto was then called. "My first occupation," he has left it on record, "in York was mercantile. I had the profits of one part of the establishment in this town, which was resigned when I went into partnership in trade,"* in Dundas. In York, Mr. John Lesslie and he were in the book and drug business; the profits of the books going to Mr. Lesslie, and that of the drugs to Mr. Mackenzie. It was found, I believe, that physic for the body was in greater demand than garniture for the mind; and the question arose of finding another place at which to establish a second business, in which Mr. Mackenzie and Mr. John Lesslie were to be partners. The business in York was afterwards conducted for the exclusive benefit of the remaining partner. Kingston was thought of, but Mr. Mackenzie did not like the place, and Dundas was selected. Here he conducted the business of the partnership for fifteen or sixteen months; during which time, I have heard him say, a clear cash profit of £100 a month was made. In a printed poster, I find the firm styled "Mackenzie and Lesslie, Druggists, and Dealers in Hardware, Cutlery, Jewelry;

* *Colonial Advocate*, January 21, 1828.

Toys, Carpenter's Tools, Nails, Groceries, Confections, Dye-Stuffs, Paints, &c., at the Circulating Library, Dundas." The partnership was dissolved, by mutual consent, in the early part of 1823. A division of the partnership effects was made; and, in papers which have been preserved, Mr. Mackenzie appears as a purchaser from the firm of Mackenzie & Lesslie to the amount of £686 19s 3½*d*. The goods included in this purchase were as miscellaneous as can well be imagined; and they were destined to form the nucleus of a separate business to be carried on by Mr. Mackenzie. The invoice is headed, "Dundas, U. C., 24th February, 1823. William Lyon Mackenzie bought of Mackenzie & Lesslie;" and its completion bears date, "Dundas, March 20th, 1823." Below this date, at the bottom of the figures, is a memorandum of agreement of purchase and sale:

"We agree that the above is a correct, true, and proper invoice, in the items and in the amount; the same being six hundred and eighty-six pounds nineteen shillings and three pence ½ curr'y.

"WM. L. MACKENZIE, JOHN LESSLIE."

With this stock a separate business was commenced, but it was not long continued, for in the autumn of the same year Mr. Mackenzie removed to Queenstown, and there opened a general store. Before leaving Dundas, he sold to Mr. Lesslie one of the buildings he had erected at that place, but retained a storehouse. At Queenstown, he resided only a year; and before the expiration of that time, he had abandoned commerce for politics; and as a journalist, made the first step in the eventful career which opens with this

period of his life. The stock of miscellaneous goods was disposed of to a store-keeper in the country; and thus the business was closed without resorting to the tedious practice of selling off in detail.

While living in Dundas, Mr. Mackenzie was married. This event took place on the 1st of July, 1822, at Montreal. Miss Isabel Baxter, his bride, may be said to have been a native of the same town as himself; for she was born at Dundee and he at Springfield, a suburb of the same place. Though they both were at the same school together, when young, they had ceased to be able to recognize one another when they met at Quebec. The marriage took place within three weeks from the first interview: a circumstance that accords with the general impulsive nature of his character. Of this union the issue was thirteen children: three boys and ten girls; six of whom are now living: four daughters and two sons. Five died in infancy: one at thirteen years, and one at thirty-two.

Up to this time, Mr. Mackenzie had not held any other office in Canada than that of School Trustee; and he confessed that even that mark of public confidence inspired him with pride. He and Mr. Thorburn were elected to that office, at the same time, at Queenstown. Speaking of this occurrence, he says: "The first newspaper I ever issued was a protest against binding down our projected university to the dogmas of any sect: whether of Oxford, Edinburgh, Rome, or Moscow." Never was prophecy more literally fulfilled than that of his regarding the effects of giving a sectarian character to a university which had not yet come into existence.

CHAPTER IV.

Mr. Mackenzie's Reasons for going into Politics—Condition of Canada in 1820—Moderation of the Political Principles with which he set out—Most of the Reforms he advocated Carried—On some subjects Public Opinion went far beyond his Starting Point—State of the Press in Upper Canada, in 1826—A Union of all the North American Provinces—General Election, of which the Result was Unfavorable to the Executive—A Scene in Court—Mackenzie on Judge Boulton.

WHEN Mr. Mackenzie abandoned trade for politics, he was doing well, and had done well ever since he commenced business. A perseverance in the career on which he had entered four years before would have led to wealth. In the first number of *The Colonial Advocate*, published at Queenstown, on the 18th May, 1824, he describes himself as being "as independent as editors can well be;" and this evidently had reference to his pecuniary position, for he adds, "We are not in want, neither are we rich." The step which he had now taken was one of the most important in his whole career, since it involved every thing that followed. Why did he take it? Fortunately the answer can be given in his own words. In a letter written to a friend while he was in the United States, he says:—

"When you and your father knew me first, in 1820, I was a young man connected with trade in

York and Dundas. The prudent, judicious, and very profitable manner in which I conducted, alone, the partnership concerns of a large trading establishment, at the head of Lake Ontario, surely afforded satisfactory evidence that I had no occasion to leave my private pursuits for the stormy sea of politics, with a view to the improvement of my pecuniary prospects. When I did so, and assumed, as the westernmost journalist in the British dominions on the continent of America, the office of a public censor, I had no personal enemies, but was on friendly terms with many of the men whom since then I have steadily opposed. I never interfered in the public concerns of the colony, in the most remote degree, until the day in which I issued twelve hundred copies of a newspaper, without having asked or received a single subscriber. In that number I stated my sentiments, and the objects I had in view fully and frankly. I had long seen the country in the hands of a few shrewd, crafty, covetous men, under whose management one of the most lovely and desirable sections of America remained a comparative desert. The most obvious public improvements were stayed; dissension was created among classes; citizens were banished and imprisoned in defiance of all law; the people had been long forbidden, under severe pains and penalties, from meeting anywhere to petition for justice; large estates were wrested from their owners in utter contempt of even the forms of the courts; the Church of England, the adherents of which were few, monopolized as much of the lands of the colony as all the religious houses and dignitaries of the Roman Catholic Church

had had the control of in Scotland at the era of the Reformation; other sects were treated with contempt and scarcely tolerated; a sordid band of land-jobbers grasped the soil as their patrimony, and with a few leading officials, who divided the public revenue among themselves, formed 'the family compact,' and were the avowed enemies of common schools, of civil and religious liberty, of all legislative or other checks to their own will. Other men had opposed, and been converted by them. At nine-and-twenty I might have united with them, but chose rather to join the oppressed, nor have I ever regretted that choice, or wavered from the object of my early pursuit. So far as I or any other professed reformer was concerned in inviting citizens of this Union to interfere in Canadian affairs, there was culpable error. So far as any of us, at any time, may have supposed that the cause of freedom would be advanced by adding the Canadas to this Confederation, we were under the merest delusion."

This picture of Upper Canada, in 1820, may be highly colored; but in the general outlines, repulsive as they are, there is too much truth. The limner lived to see a change of system in Canada; and after he had had a more than theoretical experience of Democracy in the United States—having resided there for several years—he warns Canadians not to be misled by the delusion that the cause of liberty would be advanced by uniting these Provinces to the American Republic. When we come to see at what price he purchased the experience, which entitled him to express such an opinion, the value of this admonition

cannot fail to be enhanced in the estimation of all unprejudiced judges.

In some respects, the condition of the Province, in 1820, was worse than Mr. Mackenzie described it. He dealt only with its political condition; but the absence of demand for employment made wretched those who depended solely upon their labor for subsistence. When Lord A. Hamilton suggested, in the House of Commons, April 28th, 1820, that an emigration to the North American colonies would be the most effectual means of relieving distress at home, the Chancellor of the Exchequer replied, that the emigrants who had recently gone there, "so far from finding increased means of subsistence, had experienced a want of employment fully equal to that which existed in the most distressed manufacturing districts of this country. The North American Provinces of Great Britain had been so overloaded with emigrants, that the government of Canada had made the strongest remonstrances to the government of this country on the subject."

Public meetings, the actors in which had been deputed to represent any portion of the elections, were illegal; and every thing in the shape of a convention was held to be seditious. Any new comer, who had not been six months in the Province, was liable to be banished, not for any thing he had done, but upon a mere suspicion that he was "about to endeavor to alienate the minds of his Majesty's subjects of this Province from his person or government." Under the sedition act of 1804, which armed the government with this authority, Mr. Robert Gourlay, a Scotchman of respectable antecedents and shattered nerves, was sen-

tenced to banishment, and afterwards imprisoned for refusing to obey the order. The shock was too much for his acute organization; and the imprisonment before trial—the fourth he had to undergo—deprived him of his reason. On the verdict being pronounced—guilty of refusing to leave the country—he asked one of the jurymen whether it was for sedition that he had been tried. The object of the convention, which was held at York in 1818, was to arrange for sending commissioners to England, to bring before the Imperial authorities the condition of the Province, with a view to its amelioration. Col. Beardsley of Hamilton, the chairman, was tried by court martial, and deprived of his commission. Among the delegates, there were many who had shown their attachment to their sovereign during the war of 1812. The lands to which they were entitled, as bounty, were withheld from them, on account of their presence at that assemblage. A very difficult and irritating question arose, of the state of the naturalization laws, as they affected persons of British birth, who had remained in the United States till after 1783, and then came to settle in the Province. Of the Post-office revenue, no account was given; and in return for high rates of postage the service was very indifferently performed.

With what opinions did the future leader of an insurrection, which it cost so many millions of dollars to quell, set out? Was he a fierce Democrat, who had resolved with malice prepense to do all in his power to overthrow those monarchical institutions which had suffered gross abuse at the hands of those to whom their working had been confided? No prospectus

having gone forth as an *avant courier* of *The Colonial Advocate*, the first number of the journal, which was in 8vo. form, was devoted chiefly to an exposition of the principles of the editor. The range of topics embraced was wide, and the tone of discussion, free from the bitterness that marked his later writings, was frank. A Calvinist in religion, proclaiming his belief in the Westminster Confession of Faith, and a Liberal in politics, yet was Mr. Mackenzie, at that time, no advocate of the voluntary principle. On the contrary, he lauded the British government for making a landed endowment of the Protestant Clergy, in the Provinces, and was shocked at the report that, in 1812, voluntarism had robbed three millions of people of all means of religious ordinances. "In no part of the Constitution of the Canadas," he said, "is the wisdom of the British Legislature more apparent than in its setting apart a portion of the country, while yet it remained a wilderness, for the support of religion." Mr. Mackenzie credited Lord Melville, when Mr. Dundas, with having been the first adviser of this measure; but this is a mistake, for the Archbishop of Canterbury had previously interested himself in the matter, and Col. Simcoe had pronounced in favor of a church establishment, in Canada, as a means of upholding a distinction of ranks, and lessening the weight of democratic influence. Mr. Mackenzie compared the setting apart of one seventh of the public lands for religious purposes to a like dedication in the time of the Christians. But he objected that the revenues were monopolized by one church, to which only a fraction of the population

belonged. The envy of the non-recipient denominations made the favored church of England unpopular. Though this distribution of the revenues was manifestly in accordance with the law creating the Reserves, the alteration of that law, if it should not meet the wishes of the people, had been contemplated and provided for by its framers. By this argument, Mr. Mackenzie was easily conducted to the conclusion, "that Catholic and Protestant, Episcopalian and Presbyterian, Methodist and Baptist, Quaker and Tunker, deserve to share alike in the income of these lands;" and he expressed a hope that a law would be enacted, "by which the ministers of every body of professing Christians, being British subjects, shall receive equal benefits from these Clergy Reserves." But this was not to be; for agitation, or the question, was to be directed to the abrogation, not the equal division, of these reservations.

On this question, the conservative character of Mr. Mackenzie's opinions was found to be out of harmony with the general sentiment, as it gradually unfolded itself, and his own opinions changed. He could not have retained these views, and maintained his popularity. Besides, as the subject was more discussed, he saw reason to change them. On another question—that of establishing a Provincial University—he contended for a principle, the adoption of which would have caused a great deal of subsequent difficulty. Cordially seconding the proposal of Dr. Strachan, to establish such an institution, he predicted that it would attract but few students, and not answer the purpose for which it was required, "if tied down by

tests and oaths to support particular dogmas." This warning was unheeded, and for the reasons he had given, the university had to be turned upside down a quarter of a century afterwards, having in the meantime produced a minimum quantity of good fruit.

The Executive Government, the Legislative Council, the Bench, the Bar, the Church, all came in for a share of attention. Governor Maitland was disadvantageously compared to De Witt Clinton, of the State of New York. The members of the Executive, apparently for no sound reason, were described as "foreigners." The Legislative Council, a majority of whose members held offices under the crown, and were even pluralists in a small way, were represented as being "always selected from the tools of servile power." The dependent position of the Judges, being removable at the pleasure of the Executive, was lamented. As for the Church, which claimed to be the established religion of the country, its ministers were declared to be not of that class who endure persecution for conscience' sake. The Bar was admitted to have four righteous members, and might, therefore, be considered to be in a hopeful condition. But the standard to which its members were expected to attain was no common one. Lawyers were expected at all times to be ready, without fee or other reward than the approval of a good conscience, to plead the cause of the unfortunate poor.

In so many words, the young journalist volunteered a disclaimer, by way of anticipation, of being a Radical Reformer. He had joined no Spafield mobs. He had never benefited by the harangues of Hunt, Cob-

bett, or Watson. He was not even chargeable with being a follower of Gourlay, who had already rendered himself odious to the ruling faction. With none of these sins was Mr. Mackenzie chargeable. And though he was a warm reformer, he "never wished to see British America an appendage of the American Union." American liberty was good, but British liberty was better. From the Americans we might learn something of the art of agriculture; but of government nothing. Yet our own system of cross-purposes required reformation. The proposed Union Bill of 1818 had been rightly rejected, and the only desirable union was one of all the British American colonies. The first existing law against which Mr Mackenzie directed his pen, after that which gave the Church of England the entire proceeds of the Clergy Reserves, was that upholding the right of primogeniture.

Such are the views promulgated by the young journalist at the outset of his career. Yet, moderate and even conservative as they were, on many points, an organ of the official party suggested that he should be banished the Province, and the whole edition—which it would not have been easy to collect after it had once been distributed through the country—seized. We look upon them now as being for the most part moderate and rational; and where the majority of the present generation of Canadians will differ from him is that, on the Clergy Reserves question, he did not hold the voluntary view. At that time, he would have denounced secularization as a monstrous piece of sacrilege. The views which he expressed in refer-

ence to a Provincial University, before it had been brought into existence, afterwards came in the shape of a reform, the fruit of a long and bitter controversy. Members of the Legislature no longer hold subordinate offices, much less are they pluralists. The judges hold their offices for life, and are not removable at the pleasure of the Executive. The Executive Council can only be composed of such men as can obtain the favor of a legislative majority. The Church of England, having no exclusive privileges, and making no pretensions to dominancy, no longer excite jealousy, envy, or hatred. All the Provinces of British America have not yet been united under one government, it is true; but the question of uniting them never before occupied the same degree of attention. The right of primogeniture has been abolished, and intestate estates are equally distributed among the children. The mode of administering the government has been so revolutionized as to be equivalent to a complete change of system. The game of cross-purposes, of which Mr. Mackenzie complained, is no longer played between the two branches of the Legislature, or between the popular branch and the Executive. In making the Legislative Council elective—saving the rights of life-members already appointed—we have gone a step beyond what Mr. Mackenzie dreamed of in 1824, and which he would probably, at that time, have opposed as a radical departure from the British system of government.

Something new under the sun had appeared in the newspaper world of Upper Canada. To official gazettes containing a little news, and semi-official sheets,

which had an intense admiration of the ruling oligarchy, little York had previously been accustomed. To newspaper criticism the Executive had not been inured; and it was determined that the audacity of the new journal should be rebuked. In spite of all his protestations, Mr. Mackenzie was called upon to defend himself against an imputation of disloyalty; and, judging from his reply, he appears to have felt this as one of the most galling and at the same time one of the most untrue accusations that could have been made against him. A Mackenzie disloyal! In the annals of the whole clan no record of so unnatural a monster could be found. On the 10th of June, Mr. Mackenzie replied at great length. A part of this reply has already been given, in the way of family history; and the more material parts of the remainder must not be omitted:

“Had Mr. Fothergill not been pleased to accuse me in plain terms of democracy, disloyalty, and foul play, I should not have devoted so much of this number to party argument. It is necessary for me, however, when my good name is so unexpectedly and rudely assailed, in the first place, to deny, in plain and positive terms, such a charge; it will then accord with my duty, as well as with my inclination, to inquire how far he or any man is entitled, from any observations of mine to advance such statements as appear in the official papers of the 27th ult. and 3d instant.

“I consider it the bounden duty of every man who conducts a public newspaper, to endeavor to regulate his own conduct in private life, so as that the observations he may publicly make on the words and ac-

tions of others, may not lose their weight and influence on being contrasted with his own behavior, whether as the head of a family or as an individual member of society. Were I a native of the village in which I now write, or of the district in which it is situated, the whole of my past life could be fairly referred to, as a refutation, or as a corroboration of what he has urged against me; but as that is not the case, this being only the fifth year of my residence in Canada, I must refer to that residence, and to such other circumstances as I may consider best calculated to do away the injurious impression that will be raised in the minds of those that do not know me, and who may therefore be unjustly biassed by his erroneous statements. I will, in the first instance, refer to every page of the four numbers of *The Advocate*, now before the public; I may ask every impartial reader, nay, I may even ask Mr. Robinson* himself, (that is, if he has any judgment in such matters,) whether they do not, in every line, speak the language of a free and independent British subject? I may ask whether I have not endeavored, by every just means, to discourage the unprofitable, unsocial system of the local governments, so detrimental to British and Colonial interests, and which has been productive of so much misery to these Colonies? Whether I have not endeavored to inculcate in all my readers, that godlike maxim of the illustrious British patriot, Charles James Fox, that 'that government alone is strong that has the hearts of the people.' It is true, my loyalty has not descended so low as to degenerate into a base, fawning,

* Then Attorney General, now Chief Justice of the Court of Queen's Bench.

cringing servility. I may honor my sovereign surely, and remember the ruler of my people with the respect that is due unto his name and rank, without allowing my deportment to be equally respectful and humble to His Majesty's butcher or his baker, his barber or his tailor ! If I were reduced to poverty and distress, and were unable to work for my bread, I would cheerfully submit without repining at the Divine Providence, and ask an alms from my fellow-creatures, as a temporary sustenance to this tabernacle of clay, until in due time I were called home ; but I feel that not to gain the wealth of the Indies, could I now cringe to the funguses that I have beheld in this country, and who are more numerous and more pestilential in the town of York, than the marshes and quagmires with which it is environed.

“ It may be proper that I should for this once add a few other reasons, why disloyalty can never enter my breast ; even the name I bear has in all ages proved talismanic, an insurmountable barrier. There are many persons in this very colony who have known me from infancy, so that what I may say can there or here easily be proved or disproved if it should ever become of consequence enough to deserve investigation. If Mr. Fothergill can find that any one who bears the name which from both parents I inherit, if he can find only one Mackenzie, and they are a very extensive clan, whether a relation of mine or otherwise, whether of patrician, or (as he terms me) of plebeian birth, who has ever deserted or proved disloyal to his Sovereign in the hour of danger, even I will allow that he had the shadow of a reason for his

false and slanderous imputations; but if in this research he fails, I hope, that for the sake of truth and justice, for the honor of the Canadian press, for the sake of the respectability of that official journal of which he has the management, if not for mine who never wronged him, that he will instantly retract a charge, which, to say the least of it, is as foolish and groundless, as the observations he has connected with it are vain and futile. Only think of the consequences which might result from owing allegiance to a foreign government; think that in a few short weeks, or it may be years, one might be called on, upon the sanctity of an oath, to wage war against all that from childhood upwards he had held most dear: to go forth in battle array against the heritage of his ancestors, his kindred, his friends, and his acquaintances; to become instrumental in the subjugation by fire and sword to foreigners, of the fields, the cities, the mausoleums of his forefathers—aye perhaps in the heat of battle it might be his lot to plunge the deadly blade into the breast of a father, or a brother, or an only child. Surely this picture is not overcharged. In our days it stands on record as having been verified.”

There is no reason, not even in the subsequent history of Mr. Mackenzie, to doubt the sincerity with which those protestations were made. Years after he went so far, in a letter to Lord Dalhousie, Governor-in-Chief, as to suggest the possible return to their allegiance to England of the United States, if it were once understood that the full rights of British subjects were to be conferred upon the colonies. And he constantly raised a warning voice to show the danger

of a persistent refusal to give to colonists the full enjoyment of those rights. His nature had evidently to undergo a great change before he could become a leader of insurrection. Mr. Fothergill* does not appear to have shown any disposition to prolong the personal contest he had provoked; and he afterwards became an advocate in the Legislature of the man he had at first made a personal antagonist. In December, 1826, we find him moving—any member then had the initiation of the money votes—in the Legislative Assembly, that a small sum be paid to Mr. Mackenzie for the reports of the debates he had published. As affording a picture of the state of the press of Upper Canada, at that time, and as throwing light on this period of the life of the subject of this biography, an extract from the speech is worth reading:

“Mr. Fothergill intended to move for a sum to be paid to the editor of *The Advocate*. That paper had during the session endeavored to give an accurate account of their proceedings. Many of their resolutions, bills, reports of committees, and petitions of a public nature, had been first printed in *The Advocate*, for the advantage of their constituents, as also the speeches pro and con on several important questions; Mr Mackenzie had made great exertions—established the only newspaper on an imperial sheet, and that too without any increase in the price of his journal, ever printed or published within the colony. He had last fall, in addition to his former establishment, purchased,

* Mr. Fothergill was an English gentleman, born in Yorkshire, and well educated. He brought considerable means with him to Canada; but they were all dissipated many years before his death.

at great expense, a new patent cast iron press—the first ever seen here, also new founts of types. He had been led to believe that this additional supply of materials would be free by virtue of the bill of last session passed both houses, but was disappointed; and instead of relief, found that new and heavy duties were laid on another material article in his trade—paper. His extended circulation subjects him to a more than ordinary share of that tax felt by all printers in some degree, namely, the payment of newspaper postages quarterly in advance, rigidly enforced from those who send the papers away, and irrecoverable whether they arrive at their destination or not. And if they do arrive there, he (Mr. F.) could tell, for he had had experience as a printer, that in proportion as a paper became popular, and therefore more extensively ordered for the country, in like proportion did the proprietor become embarrassed. The readers were scattered over a vast country, thinly populated, and the returns were very long in coming back—often never; this should induce the house to pay a better price for the papers they saw fit to receive from printers; and no one in the colony suffered more from extensive credits than Mr. Mackenzie, whose impression of six or seven hundred went chiefly to the country by various conveyances. He (Mr. F.) was credibly informed that, in order to induce inquiry in England as well as here, *The Advocate* had been sent free to persons in Canada since its commencement, as many as nine or ten thousand copies, and that since the session opened, eighty or ninety copies had been weekly forwarded free, to British members of parliament, by the mail. This

would help to draw attention in the proper quarter to our country. It was plain that newspapers which assumed anything like independence in their principles or feelings were, in Upper Canada, totally excluded from benefiting by any advertising over which the government had control. He thought the newspapers furnished, and bills, resolutions, &c., reported by the editor of *The Advocate*, were fully as useful to the country, and as deserving of payment from the funds of the people, as were the proclamations for which the *Kingston Chronicle* received £45 last year from the casual revenues of the crown."

The motion for granting Mr. Mackenzie £37 16s. was carried; but the Lieutenant Governor struck the item out of the contingencies, and it was not paid. Mr. Fothergill, having had experience of newspaper publishing, was no indifferent judge of the difficulties he described. The payment in advance, by the publishers, of postage on all the papers they sent out in a year for every weekly paper, must have been next to a prohibition of newspapers altogether; and we may be sure that they were regarded with no friendly eye by the government. While postage was exacted on Canadian newspapers in advance of their transmission, United States papers were allowed to come into the Province without being prepaid; an anomaly characterized by Mr. Mackenzie as a premium upon democratic principles, and a not ineffectual method of revolutionizing opinion in the Canadas.

A union of all the British-American colonies had few earlier advocates than Mr. Mackenzie. In a

letter to Mr. Canning, dated June 10, 1824, he touches on this question.

QUEENSTOWN, U. C., *June 10, 1824.*

* * * A union of all the colonies, with a government suitably poised and modelled, so as to have under its eye the resources of our whole territory, and having the means in its power to administer impartial justice in all its bounds, to no one part at the expense of another, would require few boons from Britain, and would advance her interests much more in a few years, than the bare right of possession of a barren, uncultivated wilderness of lake and forest, with some three or four inhabitants to the square mile, can do in centuries. A colonial marine can only be created by a foreign trade, aided by free and beneficial institutions; these indeed would create it, as if by the wand of an enchanter. If that marine is not brought into being; if that trade, foreign and domestic, continues much longer shackled by supreme neglect, and by seven inferior sets of legislative bodies, reigning like so many petty kings during the Saxon heptarchy, England may yet have cause to rue the day, when she neglected to raise that only barrier, or counterpoise to republican power, which could in the end have best guarded and maintained her interests. * * * * *

British members of parliament and political writers, who talk of giving the Colonies complete independence now, either know not that our population and resources would prove very insufficient to preserve our freedom, were it menaced, or else they desire to see the sway of England's most formidable rival extended

over the whole of the vast regions of the North American continent. I have the honor to remain, Sir,

Your obedient, humble servant,

W. L. MACKENZIE.

TO THE RIGHT HON. GEORGE CANNING.

Nor was this a mere casual expression of opinion. On the 14th December, 1826, we find in his journal the following testimony to his continued advocacy of this measure, under the head of "A Confederation of the British North American Colonies:"

"Right glad should we be, indeed, if the confidential information received by *The Albion* should prove correct. We have written much and often, advocating an effective united government for the colonies, in the bonds of amity and relationship with England, we have sent hundreds of copies of our journal to Europe to distinguished persons, with that project specially marked and noted, but were always afraid that the idea would be treated as 'an idle chimera,' even by the wisest and ablest of British statesmen. It would, however, be the best and safest policy; for England can continue to hold Cabotia* only by the ties of friendship, amity, and mutual advantages—ties which, with the divine blessing, would be greatly strengthened, were the talent, the resources, the enterprise of all the colonies fully brought into action in a liberal, enlightened, and united general government."

* A word derived from the discoverer Cabot, and one which has been regarded as the best designation for the whole of British North America. While Nova Scotia, or New Brunswick, would not like to sink her individuality as part of Canada, she would not object to be part of Cabotia. Canadians, however, would object to change the name of their country.

The mode in which Mr. Mackenzie proposed to bring about this change was this :

“ Let an Act be passed in the British Parliament calling a convention of all the colonies, and let a British nobleman or gentleman of competent knowledge preside, as representing His Majesty, at that convention ; let representatives from each section of British America, chosen by the people and in proportion to the population, compose that convention ; let the outlines of a constitution be drawn up by this confederation of the talents and wisdom of His Majesty’s American subjects, and sent home for the consideration of the Imperial Parliament ; let the convention be dissolved, and Great Britain will then know what her colonies want, what they require, and it will be for the British Legislature to alter or amend such constitution, so that justice may be done to all parties, and the interests of neither sacrificed.”*

Some years before the colonial department had had this union under consideration, and, in 1822, Mr. Robinson, afterwards Chief Justice of the Court of Queen’s Bench, at the request of the Imperial authorities, gave his opinions at length on a plan of union that had been proposed.† He thought he saw many advantages in such a union ; but the Imperial government appear to have entertained a fear that it would lead to the colonies combining against the mother country. Mr. (afterwards Sir John) Robinson did not share those fears. The question attracted some attention in Nova Scotia about the same time, and Mr.

* *Colonial Advocate*, June 24, 1824.

† *Canada and the Canada Bill*, by John Beverly Robinson, Esq., 1840.

Halliburton wrote a pamphlet in which it was advocated.

Soon after Mr. Mackenzie had entered on the career of a journalist a general election came on. It was held in July. The poll was kept open a week in those times. The result, a majority opposed to the Executive, might have been contributed to by Mr. Mackenzie's efforts, though there is no reason to believe that it was much affected by his writings, since he had issued only a few numbers of his paper. There had been a great change in the *personnel* of the House. Only sixteen members of the previous Assembly had been re-elected; there were twenty-six new members; from Essex the return was short by one member; the whole number being forty-five.* In the new House the government was destined to

* In the following list of members, those whose names are in italics, held seats in the previous House:—

RETURN OF MEMBERS FOR THE NINTH PROVINCIAL PARLIAMENT OF UPPER CANADA.—Grenville—*Jonas Jones* and Hamilton Walker. Glengary—Alexander McDonnell and Duncan Cameron. Stormont—*Archibald McLean* and *Philip Vankoughnet*. Norfolk—*Francis L. Walsh* and Duncan McCall. Prince Edward—*James Wilson* and *Paul Peterson*. Hastings—*Reuben White* and Thomas Coleman. Kent—*James Gordon*. Northumberland—Zaccheus Burnham and James Lyons. [Mr. Lyons was unseated by a committee and Mr. Ewengo declared the sitting member.] Frontenac—Hugh C. Thomson and James Atkinson. Middlesex—John Rolph and John Matthews. Prescott and Russel—Donald McDonald. Lanark—*William Morris*. Oxford—*Thomas Hornor* and Charles Ingersoll. Lincoln—Bartholomew C. Beardsley, *John Clark*, John J. Lefferty, and *Robert Randall*. Leeds—*Charles Jones* and David Jones. Essex—Alexander Wilkins. Wentworth—*John Willson* and *George Hamilton*. Carlton—George Thew Borke. Halton—Richard Beasley and William Scollick. Lennox and Addington—Marshall S. Bidwell and Peter Perry. Durham—George Strange Boulton. York and Simcoe—William Thompson and Ely Playter. Dundas—John Chrysler. Town of York—*John Beverly Robinson*. Town of Niagara—Edward McBride. Town of Kingston—John Cumming.

be confronted by large majorities, even on their own measures—the Alien Bill, for instance—but the principle of executive responsibility was not acknowledged, and no question of ministerial resignation ever followed a defeat.

Prior to the meeting of the new Legislature, there arose a government prosecution, on which much popular feeling was excited; and when the case had come for a jury, Mr. Mackenzie showed more feeling at the demeanor of the judge than, from his writings, he appears to have previously displayed. Mr. Whitehead, the customs collector, at Port Hope, had commenced a prosecution against Mr. Wm. Mackintosh, the owner of the *Minerva Ann*, for an infraction of the revenue laws, in neglecting to report her arrival. The fact was admitted, but the public feeling ran strongly in favor of the defendant, the offence being looked upon as merely nominal. The jury, probably sharing the common feeling, found a verdict for the defendant; and they were about to give their reasons for doing so, when the court interposed an objection to the irregularity of such a course. Mr. Justice Boulton told the jury that their verdict was “contrary alike to the law and the evidence.” The Solicitor-General, (son of the judge,) who was conducting the case for the crown, proposed that the record should be read to the jury, whom he wished to reconsider their verdict. Mr. Washburn, on behalf of the defendant, attempted to reply, when a scene, the reverse of creditable, occurred. The judge having peremptorily ordered Mr. Washburn to sit down,

“Mr. Washburn said, I wish to know from your

Lordship, whether I am to be allowed to reply to Mr. Solicitor General's arguments or not?

"Mr. Justice Boulton—Sit down! Sir, I say—sit down! It is indecent for you to interrupt the Court.

"Mr. Washburn again attempted to speak.

"Mr. Justice Boulton—Sit down! Sir,—Sit down! or I'll—I'll—Mr. Sheriff, take this fellow out of Court!

"Mr. Washburn—My Lord! I must and will be heard. Your Lordship informed me that I should have liberty to reply. I am standing here in defence of a client who has committed his case to my hands. I have a duty to perform to him, which is paramount to every other consideration. I will not desert him now; nor can I be driven to abandon him by any man. I therefore request once more to know, before I sit down, whether I shall be allowed to reply?

"Mr. Justice Boulton—Sit down! Sir. Mr. Sheriff—Mr. Sheriff, take this man out of Court!"*

The sheriff, probably making allowance for the warmth of the judge, did not attempt to obey the order. After the judge had again addressed the jury at great length, they retired a second time, and brought in a special verdict in writing, amounting, in effect, to precisely the same as the first. Again the judge remonstrated; but the foreman of the jury cut the matter short by informing his lordship, that he should prefer to starve to death rather than alter his verdict.

On ~~this~~ proceeding, Mr. Mackenzie commented with greater indignation than he had shown on any previous occasion:

* The *Report* is taken from the *York Observer*, a government paper.

“Were I at this moment immured in a dungeon, and denied the privileges of the lowest hind that breathes the vital air, and crawls along, I would not exchange places with our high born ruler, surrounded by such men as he now delights to honor; no! I would spurn—I would loathe the very idea of such a prostration. I am the son of an humble, obscure mechanic, bred in the lap of poverty; but not to inherit the noble blood which flows in his veins—not to possess the ancestral grandeur that surrounds his name—not to wear the star that adorns his breast, nor the honorable orders that mark his valor—no! not for worlds would I exchange situations with him, surrounded by men whose whole career is like ‘vanity tossed to and fro of them that seek death.’

“If a judge can bully a jury into submission to his dictation, though expressly contrary to their own solemn verdict; if a Solicitor for the Crown can trample under foot the dearest rights of Britons; if a government, emanating from England, can cherish such a corrupt, such a detestable star-chamber crew—then the days of the infamous Scroggs and Jeffries are returned upon us; and we may lament for ourselves, for our wives and for our children, that the British Constitution is, in Canada, a phantom to delude to destruction, instead of being the day-star of our dearest liberties.”

This was followed by an appeal to the new Legislature, to address the Governor General to dismiss from his presence and counsels the politicians by whom he was then advised, including “the whole of the Boulton race, root and branch ”

CHAPTER V.

Removal to York, the Seat of the Upper Canada Government—Reporting and Publishing Legislative Debates—Newspapers and Postage—The Foundation of Brock's Monument raised to fish up an obnoxious Newspaper—Parliament House at York Burnt—A Hospital turned into a Legislative Building—Meeting of the New House—The Government in a Minority—An Irresponsible Government—Temporary Resolve (not carried out) to return to Dundas—Kissing and Government Printing go by Favor—Journey to Kingston—A Singular Character—Feeling towards the "Yankees"—The Perils of Plain Speaking—Dismissal of a King's Printer—Mr. Mackenzie resolves to abandon Politics and publish a Literary Journal—His Ideal of a Patriot.

As the Legislative session approached, Mr. Mackenzie saw reasons for removing his establishment to York, then the seat of the government for Upper Canada. A paper published at Queenstown must necessarily reproduce stale accounts of the Legislative proceedings. It was doubtful whether any newspaper, which had then been published in Upper Canada, had repaid the proprietor the cost of its production. Any publisher who sent a thousand sheets through the post-office must pay \$800 a year postage, quarterly in advance. Though some of the other settlements were well supplied with post-offices, there were none at all on the South-western frontier, from Chippewa, by Fort Erie, to the mouth of the Grand River. The three thousand settlers in Dumfries and Waterloo had

to travel from sixteen to forty miles before they reached a post-office. Postmasters received nothing for distributing newspapers, and were accordingly careless about their delivery. Other modes of distribution were occasionally resorted to by publishers to avoid the heavy postal tax. Mr. Mackenzie, at one time, thought of publishing the Legislative debates in a quarto sheet, without comment; but he must have left his own impulsive temperament out of the account if he fancied he could become a silent recorder of other men's opinions.

Since 1821, Francis Collins had furnished the principal reports of the Legislative debates; but it is in evidence that, up to 1827, the operation of publishing them had never been remunerative. Mr. Mackenzie's political enemies and rivals in the press, maliciously circulated the story, that he had removed to York under a promise from a majority of the members of the new House, that he should be guaranteed the printing of the bills and the laws; to which he replied that he would feel much more obliged if they would speedily improve an important department of internal economy of the Province—the post-office—than if they gave him all the jobs in their gift for a century to come. The new House paid a reporter £100 for reporting during the session; the reports to be delivered to the papers for publication, unless the Committee on Printing should exercise the arbitrary discretion of refusing to allow any particular report to be printed. While these reports were permitted to be published in *The Observer*, they refused to allow them to appear in *The Advocate*. After this, Mr. Rolph and Mr.

Beardsley asked to have their names struck from off the Printing Committee. Beardsley is reported to have voted for the exclusion of *The Advocate*. Mr. C. Jones, Mr. A. McLean, and Mr. Beardsley must divide the honor of the act among them. It was they who assumed the power of suppressing the reports altogether at pleasure. The question came up in the House, and although there was no decision upon it, the exclusion was not long maintained. The spite against that journal was carried to great lengths. After the ceremony of re-interring the remains of General Brock, at Queenstown Heights, on the thirteenth of September, 1824, some person, in the absence of Mr. Mackenzie, put into a hole in the rock, at the foundation of the monument, a bottle which he had filled with coins and newspapers, and among which was a single number of *The Advocate*. When the fact became known to the authorities, the foundation was ordered to be torn up and the obnoxious paper taken out, that the ghost of the immortal warrior might not be disturbed by its presence, and the structure not be rendered insecure.

Combining a book store with publishing, Mr. Mackenzie once entertained the idea of relying principally on the printing of books, and issuing a political sheet occasionally. *The Advocate* had not indeed appeared with strict regularity; only twenty numbers having been published in six calendar months. Some numbers had, after several weeks, been reprinted, and others continued to be asked for after they could be supplied. The last number of *The Advocate*, published in Queenstown, bears date, November 18, 1824; and

the first number printed in York appeared on the twenty-fifth of the same month. In January, 1825, its circulation was stated at eight hundred and thirty.

At Christmas, 1824, the northern wing of the Legislative buildings, situated on the site of the present Toronto jail, was accidentally burnt down; and as the new House was to meet on the 11th of January, 1825, there was not much time to find new quarters for the Legislature. No time was lost in putting the new, now the old and abandoned, hospital, into order for that purpose.

The first trial of party strength, if such the election of Speaker could be considered, seemed to indicate a pretty well balanced House, the vote being twenty-one against nineteen;* but upon other questions the government minority shrunk to much smaller dimensions. Mr. Willson of Wentworth had become the successor of Mr. Sherwood in the Speaker's chair. The Liberals were in ecstasies. "The result of this election," said Mr. Mackenzie, "will gladden the heart and sweeten the cup of many a Canadian peasant in the midst of his toil." The advantage of such a victory must, however, be very small, under a condition of things which permitted the advisers of the sovereign's representative to keep their places in spite of a permanently hostile legislative majority. Not only were

* Vote of the House of Assembly, at the election of Mr. John Willson, as Speaker :

Yeas.—Messrs. Rolph, Ingersoll, Matthews, McCall, Horner, Beasley, Beardsley, McBride, Clark, Randall, Lefferty, Scollick, Hamilton, Playter, Thompson, Thomson, Lyons, Peterson, Perry, Bidwell, and Walsh.—21.

Nays.—Messrs. Att'y General, Atkinson, White, Coleman, Burnham, Boulton, Gordon, Wilkinson, 3 Jones's, McDonell, Macdonald, VanKoughnett, McLean, Morris, Chrysler, Cameron, and Walker.—19.

ministers not responsible to the House; they did not admit that they had any collective responsibility at all. The Attorney General (Robinson) said, in his place in the House, "he was at a loss to know what the learned member from Middlesex (Mr. Rolph) meant by a prime minister and a cabinet; there was no cabinet: he sat in that house to deliver his opinions on his own responsibility: he was under no out-door influence whatever." All eyes were turned towards the Lieutenant Governor; and as there was no responsible ministry to stand between him and public censure, the authority of the crown which he represented could not fail to be weakened by the criticism of executive acts. The new House was described by Mr. Mackenzie as being chiefly composed of men who appeared to act from principle, and were indefatigable in the discharge of their duties. In committee of the whole, the Speaker entered into the debates with as much freedom as any other member.

Before he had been in York five months, Mr. Mackenzie formed a fleeting resolution to leave it, and return to Dundas. He had, while there, become much attached to the people. If his paper found a less number of readers there than at York, the prospect was rather consolatory than otherwise, since he would have fared better if the number of his patrons had been diminished by five hundred.* Mr. Mackenzie's friends had urged him not to carry this resolution into effect; but it was taken, and was not, as he per-

* A collector whom he had sent into the country with \$1,400 of newspaper accounts, collected in eleven weeks only £42 13s 10d, from which £15 was deducted for personal expenses. To obtain this much the collector walked 1200 miles.

suaded himself, to be shaken. His friends—we are not told who they were—rejoined: “If you remain, you may next year get the Legislative printing.” He had offered to print of the laws one thousand copies for less than £100—the King’s printer having received over £900 for the same work in the previous year—and failed to obtain the contract. “Business shall be dull with me,” he said, “if at any future day I condescend to take those measures to obtain the work of a legislative body, which I find to be the sure means of success in York.” For whatever reason, he changed his resolution to return to Dundas, and remained at the seat of government.

In March, Mr. Mackenzie went to Kingston, where some of his wife’s relatives lived; “a journey of nearly four hundred miles, on some of the worst roads that human foot ever trod, and in an inclement season of the year.” The villages of Port Hope and Cobourg, which, five years before, had contained some half a dozen houses each, were now rapidly increasing post-towns. At Kingston, he found that foreigners were not allowed to visit the Royal Navy Yard, the English Dock Yard customs being observed. He obtained a visiting pass from Captain Barrie, the acting Commissioner. He could not help expressing a hope that the boastful Yankees might be taught civility.

“I went on board the great ship *St. Lawrence*, and although none of your warlike sort of people, except in a quiet way and upon paper, I do hope that if she is ever again put in commission, she will give these noisy brethren of ours on the other side the lake such a broadside as they may remember; so that at the peace

which will be thereafter, I may hear less of their glorious and uninterrupted line of victories by sea and land—General Hull's campaign to the contrary notwithstanding."

Near Port Hope, he met an innkeeper, whose description is singular enough to deserve preservation:

"An innkeeper of eccentric manners resides at the 'Bull Tavern,' near Port Hope. I never miss calling on him when I go that way; indeed our acquaintance is of five years' standing, for I remember when he first pitched his tent where now stands the hospitable caravansary of 'John Bull.'

"The name of mine host is Mr. Thomas Turner Orton, and he is far above the ordinary cast of innkeepers, inasmuch as he is a linguist, a polemic, and a political economist of no mean celebrity. When the stage stopped at the 'John Bull,' Mr. Orton was busily engaged reading the Hebrew Bible, with the aid of a Lexicon, and he, much to my edification, condescended to instruct me in the difference between a Lexicon with and without points. I believe the learned Parkhurst himself could not have given a clearer definition. While we rested, I learnt from him, that Mrs. Thomas Turner Orton, his lady, had been bred along with the royal family of France. As also that the Lieut. Governor had made him an offer of the *U. C. Gazette*, that he is an adept at the French language, that he had long been intimate with his late Majesty of Sweden, (Gustavus,) and on the most familiar terms with the King of Denmark. Mr. Orton was formerly, as we are informed by the London Directory for 1814, a 'Ship-owner and General Commis-

sion Agent, Orton's Terrace, Commercial Road,' London; and it was, when a prisoner of war, that this intimacy with the predecessor of Bernadotte had its commencement."

At the end of a year after its commencement, forty-three numbers of the newspaper had appeared. The subscribers, who were accounted with at the rate of fifty-two numbers for a year, were warned that they must not expect any greater regularity in future. The attention which even a weekly newspaper required, put an end to the devouring of large numbers of books, to which, Mr. Mackenzie was previously addicted. "Much of my past life," he said, "has been spent in reading; to this the last twelve months form an exception, as in that time I have scarcely had an opportunity to open a volume." One year's experience had taught him that "the editor in Canada, who, in the state the Province was then in, will attempt freely to hazard an opinion on the merits and demerits of public men, woe be to him! By the implied consent of king, lords, and commons he is doomed to speedy shipwreck, unless a merciful providence should open his eyes in time, and his good genius prompt him 'to hurl press and types to the bottom of Lake Ontario.'"

The time was rapidly approaching, when, in his own case, the evil genius of his enemies was to perform this service for him, and literally throw his types into a bay of Lake Ontario.

From the 16th June to the 18th December, 1825, there was a cessation of the publication of *The Advocate*. In about eleven months, fifty-one numbers had been issued; but the intermissions, of which no notice

was given, did not conduce to the success of the journal. The readers desired to receive it regularly every week, and the preparation requisite for a compliance with their desire necessitated a breathing spell. After that was over, Little York was promised a newspaper equal in dimensions to the more noted of the New York sheets. Unexpected delays, however, prevented its appearance till more than a month after the legislative session had commenced. The experiment must have been a hazardous one in a country where the population was scattered over a very wide extent of territory, and numbered only 157,541; not much more than the united populations of Montreal and Toronto at present.

The one paper circulating among this population, which yielded a certain profit, was the *Upper Canada Gazette*. It became necessary for Mr. Mackenzie to notice a story that he had been offered the editorship of the official paper in reversion. He showed the absurdity of the supposition that such an offer could be made to him who had opposed nearly all the measures of the government. At the same time, he thought he could make it very interesting, in a few weeks, if it were under his control; and while he should certainly accept the offer, if made, he should regard him that made it with the greatest possible contempt. Mr. Fothergill, the editor of the official paper, had a perverse habit of speaking his mind very bluntly in his capacity as legislator; and when there was a rumor of his intended removal, Mr. Mackenzie said he had too good an opinion of the Lieutenant Governor to think that he would attempt to injure Mr. Fother-

gill for having spoken in the Legislature as became the scion of an ancient and honorable family and a free-born Englishman. Mr. Fothergill had joined the extreme Liberals, on the Alien question, contending that all Americans then in the country ought to have the full rights of British subjects conferred upon them by statute; and he had moved strong resolutions on the back of an inquiry into the mysteries of the Post-office revenue, taking the ground that it was contrary to the Constitutional Act to withhold from the Legislature an account of this revenue, or to deprive it of the right of appropriating it. He had also moved an address on the Land-granting Department—always a tender subject; and in those days persons who obtained free grants of land thought it a monstrous hardship to be obliged to pay the official fees, making more contortions of feature over the transaction than a settler makes now in paying his two dollars per acre. By taking this course, he had assisted to produce those numerous defeats which had fallen, one after another, with such irritating effect upon the government. A man who did this could not long continue a special favorite of the government in those times; but that Mr. Mackenzie was ever thought of in connection with the editorship of the non-official part of the official *Gazette* is out of the question. The ink of Mr. Fothergill's reported speech on the Post-office question was scarcely dry when he was dismissed from the situation of King's Printer. He had not abused his trust by turning the paper with the conduct of which he was charged against the government, but he had ventured to confront a gross abuse in the Legislative Assembly.

That was his crime, and of that crime he paid the penalty. The office of King's Printer, in Lower as well as in Upper Canada, was held at the pleasure of the Governor, and the incumbent might be dismissed without any cause being assigned. None was assigned in this case. Mr. Fothergill had no warning, and the event appears to have come somewhat unexpectedly upon him, though he could not have been ignorant of rumors that were in everybody's mouth. It was no doubt inconvenient to have a King's Printer, who, even in his legislative capacity, opposed himself to the government; but the fault lay in the system which permitted the incumbent of such an office to hold a seat in the Legislature. The union of judicial and legislative powers in the hands of one person was a still greater evil; and though it might have been productive of far worse results, it was permitted to exist long after the period of which we are now writing.*

Free speech met small encouragement at the hands of the Executive. Francis Collins, who had been the official reporter of the Legislature for five years, in an evil hour, in 1825, commenced the publication of a

* There still were reasons why the government and their dismissed servant should deal somewhat tenderly with one another. Mr. Fothergill explained the matter of his dismissal in an address to his constituents; and though he hinted that there were men in the public service who had built palaces without any visible means of accomplishing such a feat, he could not assert, he remarked, that undue influence had been exercised in the administration of justice, or that "improper persons had been exalted into guardians of the prerogative, Legislative councillors, arbiters between the King and the people." The sarcasm was well calculated to produce effect in vulnerable places; and it was of no consequence if the general public did not understand it. A bond for £360, to cover the amount of his overdrafts on the treasury, was not taken into account in his settlement with the government. If he was a patriot, his persecutors were not without a spark of generosity.

newspaper, the *Canadian Freeman*, and in that year the Lieutenant Governor cut off his remuneration. He exhausted his means in the vain effort to report the debates at his own cost, and found himself embarrassed with debt; Mr. Mackenzie seldom or never printed Collins' reports, in the sessions of 1825-6; sometimes he dropped into the House and took a few notes on his own account, but generally this service was performed by some one else.

About six weeks before his printing office was destroyed by a mob, Mr. Mackenzie drew a contrast between the life of an editor, in those days, and that of a farmer; in which a vast balance of advantages appeared in favor of the latter. The perpetuity of task-work involved in the conduct of even a weekly paper was felt to be such a drag that he became appalled at it; and for the moment he resolved to have done with politics and political newspapers. He would by this means release himself from a galling dependence on sottish printers, reduce his expenses with the size of his paper, and manage to have at least the Sundays to himself. Having drawn a dreary picture of editorial existence, in 1826, on six-sevenths of the week, he added:

"Such is his life for six days in the week all the year round; and how think you is the seventh disposed of? If I would speak for myself I might truly say, that I am often so wearied and fatigued with the toils of the working days as to be perfectly unable to enjoy the rest provided by a kind Providence on the Christian Sabbath. That instead of being fit to attend church, read the Scriptures, or in any way engage in

the duties of divine appointment, I am glad to lay me down on my bed or on a sofa, as a temporary relief from the effects of incessant toil."

Henceforth his paper should be a Journal of Agriculture, Manufactures, and Commerce; politics should have no place in it:

"I will carry it on as a literary and scientific work, will enrich its pages with the discoveries of eminent men, and the improvements of distinguished artists; but from thenceforth nothing of a political or controversial character shall be allowed to appear in the Journal of Agriculture, Manufactures, and Commerce. By diminishing its size the expense and trouble attending it will be greatly lessened, and truly I shall be as well satisfied to employ my people generally at book work, which is a more easy employment, and can be increased or let alone at pleasure. I shall then be freed from a toilsome and irksome dependence, and if I lose thereby all political influence over the minds of the people, I shall gain in exchange, what is to me of far greater importance, a more extensive command of my own time. I must endeavor to set apart a day and a paper wherein to review my past labors; it is good to take a look at the past, as well as to endeavor to rend asunder the veil which enshrouds futurity.

"Till youth's delirious dream is o'er,
Sanguine with hope we look before,
The future good to find.
In age, when error charms no more,
For bliss we look behind."

How long this resolution was kept—whether one or two days—cannot be determined; but the next num-

ber of his journal, which took the folio shape, was chiefly filled with a long review of the politics of the Upper Province. He gave an account of the effect of his two years' journalistic campaign; claiming to have largely assisted in producing a party revolution. Men were astonished at the temerity of his plain speaking; for, since Gourlay's banishment, the prudent had learned to put a bridle on their tongues. Timid lookers-on predicted, in their astonishment and with bated breath, that the fate of Gourlay would soon fall on Mackenzie and silence his criticisms. Nearly the whole press of the country was on his back; but in spite of the rushing torrent of abuse he kept the even tenor of his way, avoiding personalities as much as possible. In the number of the 4th of May, 1826, he drew an excellent picture of a patriot;* and there is no doubt that he had tried to realize the description in his own person.

After the issue of two numbers, the quarto form was abandoned, and the broad sheet resumed. But the

* A patriot is none of your raving railing, ranting, accusing radicals—nor is he one of your idle, stall-fed, greasy, good for nothing sinecurists, or pluralists; he is in deed and in truth a friend to his country. He studies the laws and institutions of his nation, that he may improve others; endeavors rather to cultivate the acquaintance of, and shew a correct example to the better informed classes; he associates only with those whose private conduct is in unison with their public professions. Is not a mob hunter, nor a lecturer of the multitude; desires rather the secret approbation of the enlightened few than the ephemeral popularity of the many. If he is a member of Parliament he looks carefully into the merits of the question and votes consistently with his conscience, whether with or against the ministry. He is neither a place hunter, nor a sinecure hunter. He promises his constituents very little, but tries to perform a great deal. Finally he is among the last of men who would countenance political 'gamblers and black legs;' but a wise, manly, and vigilant administration is his delight."

resolution to abandon political disquisitions—probably the impulse of temporary dejection or despair—was, like the proposed removal to Dundas, given up, apparently almost as soon as formed. At all times, during his life, Mr. Mackenzie was subject to great elation at a brightening prospect, and to corresponding depression in other circumstances. Two weeks after the contemplated change in his journal, he announced that it would be placed under the editorial direction of some one else; and there was an attempt to carry out the idea that this had been done, but it appears to have been only an excusable device for keeping the personality of the editor out of view.

CHAPTER VI.

Destruction of *The Colonial Advocate* Printing Office by an Official Mob—Who threw the First Stone—Mr. (afterwards Chief Justice) Macaulay publishes Mr. Mackenzie's Private Correspondence with him—The Type Rioters cast in Civil Damages—Illness of some of the Jurors while locked up—Mr. Fitzgibbon collects the Amount of the Damages among the Officials and their Friends—Whether the Damages were Exemplary or Excessive—Spar-ring between a Judge and the Attorney-General—Francis Collins Indicted for Four Libels—He Retaliates and causes the Type Rioters to be Proceeded against Criminally—Their Conviction—Henry John Boulton and James E. Small tried for Murder, arising out of a Fatal Duel—The Official Party procure a Presentment against Mr. Mackenzie for Libel.

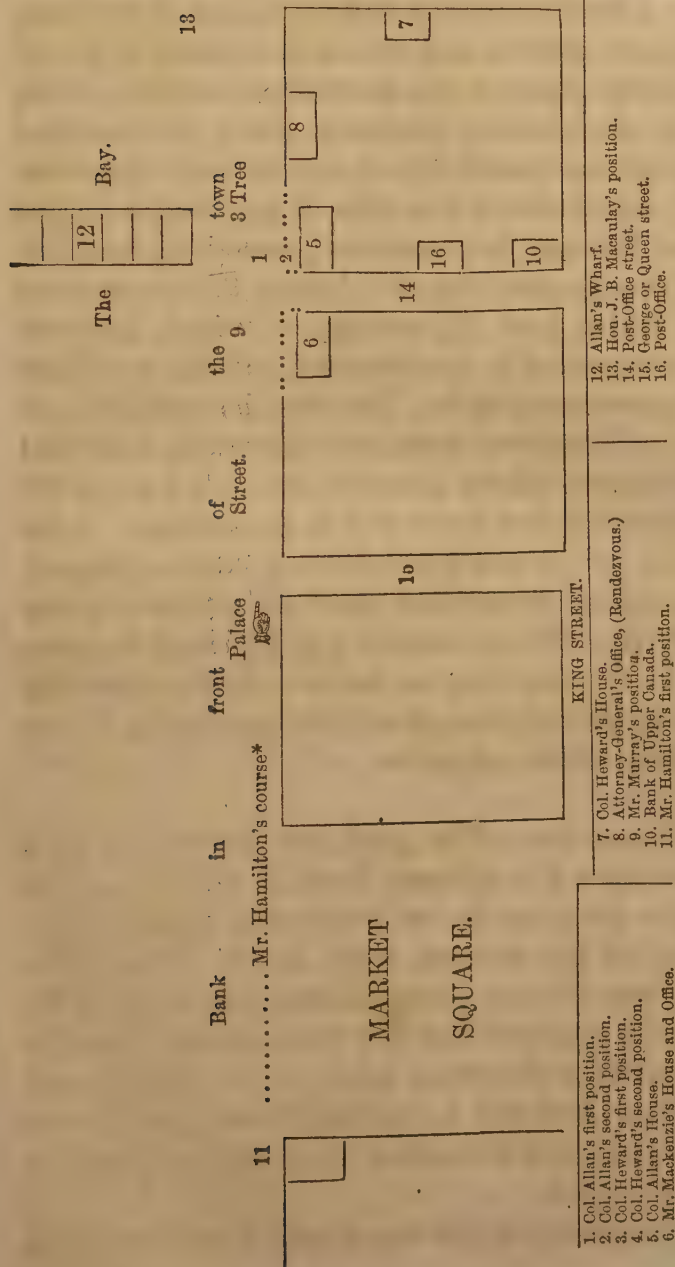
ONE fine summer evening, to wit, the 8th June, 1826, a genteel mob, composed of persons closely connected with the ruling faction, walked into the office of *The Colonial Advocate*, at York, and in accordance with a preconcerted plan set about the destruction of types and press. Three pages of the paper in type on the composing-stones, with a "form" of the Journals of the House, were broken up, and the face of the letter battered. Some of the type was then thrown into the bay, to which the printing-office was contiguous; some of it was scattered on the floor of the office; more of it in the yard and in the adjacent garden of Mr. George Munro. The composing-stone was thrown on the floor. A new cast-iron patent lever-press was broken. "Nothing was left standing," said an eye-

witness, "not a thing." This scene took place in broad daylight, and it was said that one or two magistrates, who could not help witnessing it, never made the least attempt to put a stop to the outrage. The valiant type destroyers, who chose for the execution of their enterprise a day when Mr. Mackenzie was absent from the city, were most of them closely connected with the official party, which was then in a hopeless minority in the Legislature, and had recently been exasperated by a succession of defeats.

Mr. Baby, Inspector-General, was represented on the occasion by two sons, Charles and Raymond, students-at-law. Mr. Henry Sherwood, son of Mr. Justice Sherwood, gave his personal assistance. Mr. Sherwood, while yet a law student, held the office of Clerk of Assize. Mr. Lyons, confidential secretary of Lieutenant-Governor Maitland, was there to perform his part. To save appearances, Sir Perigrine found it necessary to dismiss Lyons from his confidential situation; but he soon afterwards rewarded him with the more lucrative office of Register of the Niagara District. Mr. Samuel Peters Jarvis, son-in-law of a late Chief Justice of the Court of Queen's Bench, performed his part, and found his reward in the appointment to an Indian Commissionership, where he became a defaulter to a large amount. Charles Richardson, a student-at-law in the office of the Attorney General and Commissioner for taking affidavits, showed his zeal for the cause of his official friends, and received in requital the office of Clerk of the Peace for the Niagara District. James King, another Clerk of Assize and student-at-law in Solicitor General Boul-

ton's office, did not hesitate to give his active assistance. Mr. Charles Heward, son of Colonel Heward, Auditor General of Land Patents, and Clerk of the Peace, and Peter Macdougall, a merchant or shop-keeper in York and an intimate friend of Inspector General Baby, complete the list of eight against whom the evidence was sufficiently strong for conviction. The whole number of persons concerned in the destruction of *The Advocate* office was fifteen.

The accompanying plan will assist in the comprehension of the affair. The original names of the streets have been retained on the plan; but it should be explained that what is there set down as Post-office is now Caroline Street; and that the block between Caroline and George Streets is divided by Frederick Street, which runs north and south. Mr. Mackenzie's house and printing office, which were joined together, stood on the corner of what are now Caroline and Palace Streets. The house had been the residence of one of the early governors of the Province; and was accidentally destroyed by fire four or five years ago. The audacity of the rioters and the open connivance of leading officials, who witnessed the scene with satisfaction, form an instructive comment on the state of society in the Family Compact of the little town of York, in the year of grace, 1826.



* Part of the type was thrown into Bay from Mr. Allan's wharf. Mr. Thomas Hamilton, who was going on Palace street at the time, did not think it possible that Mr. Allan, the Police Magistrate, could help seeing what was going on from the position in which he stood; and Mr. Murray was of the same opinion. Several witnesses stated it was a fact, about which there could be no doubt. Colonel Howard was in a similar position, and the Hon. Mr. Macaulay must have witnessed the spectacle. At the "bank in front of the town," the surface lowered several feet near the water.

It is difficult to believe that a band of young men, subordinate officials and sons and relatives of the official party, planned the destruction of the printing office of an obnoxious journal in secret, and executed it without the knowledge of any of their superiors. Lyons miscalculated, it is true, if he thought he had adopted the road to immediate promotion; for whatever secret pleasure the members of the government might derive from the outrage, a British governor could not protect in a confidential, one who had been directly concerned in it. But what he could do, and did do, with indecent haste, was afterwards to reward with lucrative official positions not only Lyons, but also others who had taken part in the outrage. After it became certain that a conviction would be obtained, and a criminal prosecution might be instituted, a very business-like offer was made to pay the actual damages, much in the same way as one who had accidentally broken a sheet of plate glass while passing by a shop on a public street, might do:

“MY DEAR SIR:—The gentlemen prosecuted for a trespass upon *The Advocate* Press, so far from entertaining a desire to do an irreparable injury to the property of the concern, went openly to the office without any attempt at concealment, and aware at the time of the responsibility they would incur. An offer of indemnity to the actual extent of the injury would have been tendered immediately, had less clamor been raised and less exertion been used to prejudice the public mind.

“The real cause of the step is well known to all; it

is not to be ascribed to any malice—political feeling—or private animosity; the personal calumnies of the latter *Advocates* point out sufficiently the true and only motives that prompted it; and I have now to offer to pay at once the full value of the damage occasioned to the press and types, to be determined by indifferent and competent judges selected for that purpose. Will you inform me how far your client is disposed to meet this proposal?

“This advance is in conformity with the original intention, and must not be attributed to any desire to withdraw the matter from the consideration of a Jury of the country, should your client prefer that course; but in that event, it is to be hoped no further attempts will be used by him or his friends to prejudice the cause now pending, nor any future complaints be made of a reluctance or hesitation to compensate, voluntarily, a damage merely pecuniary, although provoked by repeated assaults upon private character and feeling not susceptible of any adequate redress.

“I am, very truly yours,

“J. B. MACAULAY.”

“J. E. SMALL, Esq.

If the party who committed the violence had from the first intended to pay the damage they had done, in the deliberate business-like way indicated by Mr. Macaulay, it is surprising that some of them—not perhaps any of those finally cast in damages—should have absconded, to evade the consequences of their crime; but it is possible that they feared a criminal prosecution, and left their solicitor and friend, who had himself offered more provocation to criticism than

any of them, to make a bargain that would save them from the jail. It seems possible that a criminal prosecution was at one time thought of; for I find that the Bidwells advised Mr. Mackenzie not to proceed in that way. The press-destroying mob were probably surprised at the indignation their achievement excited in the public mind; and in the beginning they endeavored to stem the torrent by issuing two placards in justification. But Mr. Mackenzie had been guilty of no aggression to turn the tide of public feeling against him, and the experiment failed. It was not till after this that the above offer was made. The first proposal not being listened to, a second was made through the same medium:

“6th July, 1826.

“MY DEAR SIR:—My friends do not seem inclined to make any higher proposals than follows, and which are dictated in a conviction that they fully meet the justice of Mr. Mackenzie's claim—the real extent of which they are by no means ignorant of, or unable to prove: *the value of the whole material of the establishment, but amply sufficient to cover any contingencies also; with respect to further compensation there would be no objection to add £100 more; in all £300 to end the matter.*

“Or they will agree to £200 as above stated, and leave any excess to the decision of indifferent persons—or they will leave the whole to indifferent and competent referees as at first suggested.

"If your client can meet this in any way so as to terminate the controversy, I shall be very glad; if not, I fear the law must take its course.

"I am, very truly yours,

"J. B. MACAULAY."

"J. E. SMALL, Esq.

This second proposal met the same fate as the first; and indeed, if there had been no object in making an example of the perpetrators of an outrage that reflected disgrace on all concerned, the amount offered as compensation was ridiculously inadequate. But Mr. Mackenzie refused any amicable settlement with Mr. Macaulay's clients and friends; and there was nothing left but to send the case to trial, and let a jury, upon the hearing of the evidence, award equitable, and, if they thought fit, exemplary damages.

Mr. Macaulay, in the first letter, in which he proposed a settlement of the matter, assumes that the outrage was caused by "the personal calumnies of the latter *Advocates*;" and it becomes necessary to see where the aggression commenced, and what degree of provocation the independent journalist had given to the official party, by whose satellites the work of destruction had been done. Nothing is plainer, on an examination of the facts, than that, until violently provoked, Mr. Mackenzie had been exceedingly sparing of personalities, and from the first he had been anxious to avoid them altogether. In one of the earliest numbers of his journal, he said: "When I am reduced to personalities, I will bring *The Advocate* to a close." To the personal abuse of the government papers he made no personal reply; confining him-

self to complaining, in the spirit of injury, of the wrong he suffered. Of these Mr. Carey's *Observer* appears to have been, up to this time, the greatest offender. Between the personal and political character of the actors with whom he had to deal, Mr. Mackenzie observed a proper distinction. Of Governor Maitland he said, "that he was religious, humane, and peaceable; and if his administration had hitherto produced little good to the country, it may not be his fault, but the fault of those about him who abused his confidence." Mr. J. B. Macaulay (afterwards Chief Justice of the Court of Common Pleas) he described—and he did it from a sense of duty—as a gentleman evincing "so much honor, probity, just feeling, and disinterested good will," as generated in the publicist's mind, "a greater degree of respect and esteem for the profession in general than we had before entertained." He expressed a desire to see his friend replace Mr. Justice Boulton on the Bench. Upon this latter functionary he had been, at first, playfully sarcastic, comparing him to Sir Matthew Hale, and latterly severe, as we have seen in the case of the *Minerva* Ann trial; but it will not be denied that the judge had fairly laid himself open to criticism. While opposing the Attorney General of the day, (afterwards Chief Justice Sir J. B. Robinson,) he did ample justice to his talents and his personal character:

"Mr. Robinson has risen in my estimation, in regard to abilities, from what I have seen of him during this session; indeed, there are not a few of his remarks which I have listened to with pleasure; and some of the propositions he has made in Parliament,

the road bill especially, (with a few modifications,) have my entire approbation. As a private gentleman, as a lawyer, and as a law officer, he stands as high in the estimation of the country as any professional man in it. As a counsellor of state to the Emperor of Russia, or Napoleon Bonaparte, he might have figured to advantage; but his principles will, if not softened down, for ever unfit him for a transatlantic popular assembly. He advocates those doctrines with singular force, the repugnance to which un-colonized the thirteen United States; and every taunt which he utters against our republican neighbors, tells in account against the interests of Great Britain, so far as they are united with this colony. It is evident that Mr. Robinson has not been long enough in the school of adversity to learn wisdom and discretion. He is a very young man, and I do hope and trust, that when the heat and violence of party spirit abate within him, he will yet prove a bright and lasting ornament to the land which gave him birth, and that the powers of his mind will be exerted to promote the happiness and welfare of all classes of his fellow subjects."

And again: "I would wish Mr. Robinson out of Parliament or out of place; and his former political career none condemned more boldly than I did. I have seen him this session without disguise; I have watched his movements, his looks, his language, and his actions; and, I will confess it, I reproached myself for having used him at one time too harshly."

Mr. Mackenzie had been severe upon Mr. Jonas Jones, but that gentleman had first set the example of using harsh terms. He had said in reply to a

very able speech in the House of Assembly, on the Alien question, that the member, (Dr. Rolph,) who made it, had a "vile democratic heart, and ought to be sent out of the Province." If an appeal to the Sedition Act could silence an opponent, why take the trouble to refute his arguments? He had, moreover, used threats of personal violence against Mr. Mackenzie, and was, of course, open to severe retaliation. In the Legislative Assembly he had called Mr. Hamilton, the member for Wentworth, a "fellow," when a scene followed on which it was necessary to drop the curtain to hide it from the vulgar gaze of the public. Considering these circumstances in mitigation, it must be confessed that the criticisms upon Mr. Jones scarcely exceeded the bounds of merited and justifiable severity. To Mr. Henry John Boulton, Mr. Mackenzie had declared an absence of personal dislike in criticizing his public acts. Considering Dr. Rolph too severe in his strictures on the government, he had opposed him on that account, and a personal estrangement had been the consequence.

Such is the manner in which Mr. Mackenzie had treated his political opponents during the two years he had controlled a political journal; and it may easily be conceived how slender was the pretext, on the ground of provocation, for the destruction of his printing-office. I do not say that he had never applied to his opponents language of severity, but I do say that he was not the aggressor; that under the greatest provocations he had avoided personalities; and that, at the worst, he had not proceeded to any thing like the extremity to which his assailants had

gone; and this not for the want of materials* to work upon.

In the meanwhile, how were his political adversaries bearing themselves towards Mr. Mackenzie? The Hon. J. B. Macaulay had gone to the unwarrantable length of violating the seal of secrecy, and publishing private letters addressed to him by Mr. Mackenzie; though there was not in the conduct of the latter the shadow of excuse for this outrage. Mr. Macaulay was now a member of the Executive Council, and Mr. Mackenzie, who had previously praised him, had hinted that he was not an independent as formerly; but this was in a private letter. The cause of the quarrel was utterly contemptible, and Mr. Macaulay showed to great disadvantage in it. A disagreement had taken place between the Rev. Dr. Strachan, then Rector of York, and one John Fenton, who had officiated as clerk under the rector. Mr. Mackenzie, being in Niagara, learned that Mr. Radcliffe had received a letter from Mr. Fenton, in which the latter stated his intention to publish a pamphlet on the state of the congregation in York. Meanwhile Mr. Fenton was reinstated in his position. Accordingly, a paragraph was inserted in *The Advocate*, which certainly left the impression that a fear of the threatened pamphlet had led to the reinstatement of Fenton,† with an increased

* In *The Advocate* of May 4, 1826, he said:—"What a place Little York is for scandal! Nothing can equal it! Had we set apart but one number, and used our usual diligence to embody the tales current of the vulgar great, with whose residence this place is honored, we could have set the good people, our neighbors and friends, at pulling caps; ay, even in time of church service. But we left the quartering of the arms of our York nobility to more friendly hands, pursuing the even tenor of our way."

† The paragraph was in these words:—"CLERK OF THE CHURCH—*A New Era!*—Mr. Fenton, as it is said, having announced a forthcoming pamphlet

salary. It is possible that the insinuation was not just; and yet this could not be said, if there were no mistake about the alleged facts on which it was founded. It was not denied that Mr. Fenton had been reinstated, but it was alleged that his salary was increased; and Mr. Mackenzie certainly had what seemed to be good authority for stating that the publication of a pamphlet had been announced. This was the only statement in dispute, and if it was not proved, it certainly was not disproved. Mr. Radcliffe might have been asked to write a note, stating that he had not received such a letter from Mr. Fenton, and that would have settled the matter. Mr. Macaulay was one of the church-wardens, and after the lapse of three weeks he wrote to deny the statement that a pamphlet had been threatened, and that Mr. Fenton's reinstatement carried with it any increase of salary. Mr. Macaulay's letter was sent to *The Advocate* for publication, and after it was in type he wrote to recall it, not because the matter had assumed a new shape, but because Mr. Fenton had written a denial of that part of the paragraph which related to the pamphlet. Mr. Mackenzie refused to cancel the letter to which Mr. Macaulay had appended, not his own signature, but the *nomme de plume* of "A Church-warden," on account of the offensive attitude the writer had assumed towards the editor;*

upon the state of the York congregation, the doctor made him new advances, and he has actually been reinstated as clerk of our Episcopal Church, with an additional salary. 'Tis a good thing to be in the secret!"

* The paragraph is in these words:—"Had the church-warden confined his remarks to his fellow functionary 'the clerk,' we would most readily have distributed the types of his letter yesterday, as he requested. But the tone he has seen fit to assume towards ourselves is not to be borne. There was a time

and the few lines in which Mr. Mackenzie explained his refusal to comply with the request of a person, who he thought had forfeited all claim to his indulgence, contains the whole extent of the provocation he gave to Mr. Macaulay. Clever men often do very foolish things in a passion; and Mr. Macaulay must have been in an uncontrollable rage before he brought himself to publish the private letters addressed to him by Mr. Mackenzie, on the subject of the Fenton affair, and to make jeering remarks in reference to Mr. Mackenzie's mother, an aged woman of seventy-five years. But he did not stop here; he sent the manuscript into which he had condensed his rage to Mr. Mackenzie, with an offer to pay him for its publication in *The Advocate*; a paper which he declared his intention to do all in his power to crush. One of his advertisements, a little less libellous than the rest, would have been published; but the money being demanded in advance, Mr. Macaulay refused to redeem his promise, and pretended to have a right to insist on its publication without the payment he had at first offered. He taunted Mr. Mackenzie with his poverty, and with what he called "changing his trade," and advised him to "try to deserve the charity" of the public a little better than previously, if he expected to support his mother and his family by the publication of a newspaper;

when we looked upon that church-warden as one that would become the most open, manly, and independent of his class, but it has gone by. We prized his talents, his abilities, and his judgment by far too high; and the tenor of his railing accusation against us will show the Province that he has not improved the style of his compositions since he left off studying Byron. The church-warden, who is not one of our subscribers, will find to-morrow that even to him we shall not meanly truckle, nor shall we to any man, although the blackest poverty should be, on earth, our reward."

as if it were asking charity to publish a public journal, at the usual price, and a crime for a man to support a mother,* who was too aged and too helpless to support herself. Without even mentioning him by name, Mackenzie had described Mr. Macaulay as a man whom he had ceased to look upon as possessing manly independence; and in return this member of the government claimed as a right to have published in *The Advocate* letters containing gross personal abuse of its editor and ridicule of his aged mother. To these letters he had not the manliness to append his name; if he had, he was aware that their virulence would not have prevented their publication, for in that case the writer would have placed himself, as well as his antagonist, upon trial before the public; and every one who read them, in connection with the comments they must have provoked, would have been able to judge of the spirit in which they were conceived and the justice of their contents. The right to compel the editor to publish anonymous communications, which Mr. Macaulay had claimed, was wholly without foundation; and as for courtesy to such a correspondent it was out of the question. But it is useless to reason upon the acts of a man who had permitted passion so completely to get the mastery over his judgment.

* This piece of insolence was founded on the following passage in a private letter addressed by Mr. Mackenzie to Mr. Macaulay:—"As to the motives and character of my journal, let its unexampled circulation among the better classes in the colony speak for me. As to the result—I feel that I mean to do right—I am well satisfied that I am doing good, and though I have to struggle with a slender capital and a government who make the public advertising subservient to other purposes than that of giving general information of the thing advertised, I am as well pleased and as contented to struggle along through life as free as the air on the Scottish mountains; yea, and more so than the most

It is far from my desire to rekindle animosities that have long since died out, and the recollection of which is only preserved from oblivion by a few scattered documents and the shadowy memory of the observing men of those times who still survive; but in this biography it is necessary that the history of an act of gross violence be faithfully given. I have gone into the provocation offered by Mr. Macaulay at length, because it was in reply to a pamphlet, in which he embodied all this venom, that Mr. Mackenzie told some stories about certain members of the Family Compact that he never would have put into print if he had not been provoked beyond endurance. If in striking back, a few blows fell upon Mr. Macaulay's official associates, who had not joined openly in the provocation, Mr. Mackenzie exceeded the bounds of strict retaliatory justice; it must be remembered that the connection between all the sections of the Family Compact was very close, and that when the last word of defiance has been hurled at a man he is not to be bound by a very rigid etiquette, if he finds it necessary to "carry the war into Africa." But the reply, calmly

voluptuous courtier can be, even in his most joyous hours. If I am enabled to maintain my old mother, my wife and family, and keep out of the hands of the law for debt, I care not for wealth, and should as willingly leave this earthly scene not worth a groat as if I were worth thousands. I one day thought I should have wished to have seen you member of the Legislature for York, and that you would have become a useful and truly independent representative of the people. It was not to be, however. I greatly mistook your views, which, situated as you now are, are not likely to become more liberal."

Mr. Macaulay, in commenting on this, sneered at what he called the "printing business," and asked why Mr. Mackenzie left his "former honest calling," as if a profession in which a man speaks his own free thoughts is not just as respectable as that of the man who hires out his wits and his eloquence in defence of every species of criminal who can pay his fee.

viewed at this distant day, so far as it affected Macaulay, appears mild and playful beside the savagery of the unprovoked attack ; I say unprovoked, because it does not exceed the bounds of fair or ordinary criticism to tell a political opponent that you have ceased to see in him a person possessed of manly independence. At the same time it must be confessed that some of Macaulay's friends came in for knocks which there is no public evidence of their having merited at Mr. Mackenzie's hands ; and it would have been better if he had confined the punishment, he was well entitled to inflict, to the man who alone had raised a hand (except through the medium of the convenient instruments of their will) to strike him down.

Macaulay's libel did not produce the effect intended. The object, it is plain enough, was to provoke Mr. Mackenzie into the use of language for which he might be prosecuted, and either banished, like Gourlay, or shut up in a prison. But Mackenzie was too wary to be caught in this clumsy trap ; and his reply, instead of retorting rage for rage, was playfully sarcastic and keenly incisive. The dialogue form was adopted ; the speakers being a congress of fifteen contributors to *The Advocate*, who purported to have assembled in the Blue Parlor of Mr. McDonnell, of Glengary, at York. Patrick Swift, nephew of the immortal Dean, who had inherited a share of his uncle's sarcasm, was a prominent actor, and infused his playful spirit into the other contributors. Over a huge bowl of punch, toasts are drunk, tales told, songs sung, and politics discussed. Judging from the spirit of these proceedings, Mr. Patrick Swift and his coadjutors were

intent on copying the style of his uncle and their prototype :

“From the planet of my birth,
I encounter vice with mirth;
Wicked ministers of state
I can easier scorn than hate;
And I find it answers right:
Scorn torments them more than spite.”

“Lawyer Macaulay” was “the knight of the rueful countenance;” and it was hinted by one of the wits that even he had family reasons for not scoffing at persons for “changing their trade.” When one of the company was asked for a song, he excused himself by saying, “Macaulay’s screech-owl notes are the music of the spheres compared to my singing;” and so he claimed the privilege of telling a story instead. Among the stories told was one of a person who got a grant of land for his mother, many years after her death, and twelve hundred acres for an unborn child; and a document, apparently genuine, was produced, showing that an honorable personage desired to locate two hundred acres on Burlington Bay, and the surveyor was instructed that the distinguished name must not appear on the plan. One of the speakers added, by way of explanation, that the two hundred acre limit produced a block of some thousands, which the honorable recipient sold to great advantage. By virtue of his official position, this personage made large grants of land to himself, and appointed himself puisne judge, receiving an additional salary of £500 for the performance of scarcely any duties. This had no reference to Macaulay, though about half the ten-columns’ dialogue was devoted to him, much of which

consists of a sharp refutation of statements published in the Macaulay pamphlet, most of which were either too absurd or too malignant to deserve an answer at all. Mr. Macaulay could not have made a worse selection of the time he chose for attempting to strike Mr. Mackenzie down. The latter seriously contemplated retiring from political discussions, and prudence might have suggested that he should be allowed to depart in peace.

Mr. Mackenzie's enemies were furious. He had stung them to the quick; but he had dealt with matters to which it would not be desirable to give additional notoriety by making them subjects of prosecution. Truth might, legally speaking, be a libel, but there are unpleasant truths, which, though it be illegal to tell, cannot well be made a ground of action. Juries might be obstinate and refuse to convict a writer, who, after unbearable provocation, had been stung into telling unpleasant facts, a little dressed up, or exaggerated though they may have been, to give effect to their narration. It was clear that Mackenzie could not be banished for sedition. He could not even be tried under the Sedition Act, having been some years in the Province; and he had neither spoken nor published any thing of a seditious nature. What then remained? The sole resource of violence; and violence was used: the office of *The Advocate* was destroyed by a mob, consisting of persons who bore suspiciously close relations to the government.

The trial came off at York, in the then new but now disused Court-house, in 1826. The defendants had elected to have a special jury; and on the ninth of

October, it had been struck at the office of the Deputy Sheriff, in presence of Messrs. Small and Macaulay, attorneys for the plaintiff and defendant respectively. On the day of trial, only eleven of the special jurors appearing, the deficiency was made up from the petty jury list. Of the twelve jurors* who were to try the case, nine resided in the country, and only three in York. Chief Justice Campbell was the presiding judge; and by his side sat, as associate judges, the Hon. William Allan and Mr. Alexander McDonnell. Both sides were well provided with able counsel. For the plaintiff appeared the younger Bidwell and Messrs. Stewart and Small; for the defendants, Macaulay and Hagerman. Every inch of standing room in the Court-house was occupied by spectators, eager to witness a trial which had prospectively excited universal public interest. Many witnesses testified to the destruction of the printing office, and proved that the eight defendants were engaged in it. It was shown that the Hon. Mr. Allan, who played the part of associate judge on the trial, had been in conversation with Col. Heward, whose son was among the desperadoes, at a point where they must have witnessed the whole scene. Though they were both magistrates, neither of them attempted to remonstrate with the defendants, nor to induce them to desist. The defendants called no witnesses; and Mr. Hagerman, in addressing the jury on their behalf, assailed

* Their names were:—Robert Rutherford, of York, foreman; Ezra Annis, of Whitby; James Hogg, Milford Mills; David Boyer, Markham; Valentine Fisher, Vaughan; Robert Johnson, Scarboro; Joseph Tomlinson, Markham; Peter Secor, Markham; Edward Wright, York; Joel Beman, George street; George Shaw, York.

The Advocate; but he did not venture to read the objectionable matter to the jury. Without a tittle of evidence to support his assertion, and in the teeth of well known facts, he stated that Mr. Mackenzie had left York at the time his printing materials were destroyed, to evade the payment of his debts. The trial lasted two days, which were days of great anxiety for the plaintiff; "because," as he himself stated, "great expense had been incurred, and I knew that if by any means a verdict should be delayed, or no verdict returned, the consequences would to me be ruinous in the extreme."

For a long time, it seemed very unlikely that the jury would agree. At an inclement season of the year, they were put between the sweating walls of a newly plastered room, the air of which was raw and unpleasant, where they remained for thirty-two hours. Some of them were far advanced in years, and three were ill. Mr. Jacob Boyer, a German by birth, was so bad as to require medical assistance; and Dr. McCague being sent for, bled the enduring juror. Boyer said he was prepared to make a pillow of his great coat, and endure another day of that close cold room, if necessary. The evidence was clear to his mind, and he would not be starved into giving a verdict against his convictions. During all this time, various amounts of damages had been discussed. Sums varying from £2,000 to £150 had found favor with different jurors; but the real difficulty was with one man—a George Shaw—who tried to starve his fellow jurors into compliance with a verdict, giving £150 damages; but finding this impracticable, he at last gave

way. Mr. Rutherford, the foreman, named £625 and costs, and the amount was agreed to by all the jurors. Referring to the result of the trial, soon after, Mr. Mackenzie said: "That verdict re-established on a permanent footing *The Advocate Press*, because it enabled me to perform my engagements without disposing of my real property; and although it has several times been my wish to retire from the active duties of the press into the quiet paths of private life, I have had a presentiment that I should yet be able to evince my gratitude to the country which, in my utmost need, rescued me from utter ruin and destruction."

Shortly after the trial, the amount of the verdict was paid by Mr. Macaulay to Mr. Mackenzie's attorney. The money was raised by subscription; the political friends of the press-destroyers feeling in duty bound to bear harmless the eight volunteers who had performed the rough task of attempting to silence, by an act of violence, an obnoxious newspaper. Col. Fitzgibbon, laboring under an irrepressible sense of duty towards the kid-gloved "roughs," took round the hat. Unhappily, no list of the contributors is obtainable; though it is believed the officials of the day were not backward in assisting to indemnify the defendants in the type riot trial, for the adverse verdict of an impartial jury. No mark of approbation could well be more sincere than this; and it is a question whether the voluntary accomplices after the fact were wholly ignorant that the outrage had been planned before they knew that it was put into execution. Col. Fitzgibbon was already a Colonel of Militia, Deputy Adjutant General, and Justice of the Peace. But such

services as his were not deemed to be requited by such paltry appointments, and he was therefore appointed Chief Clerk to the Legislative Assembly.

There remained the question of a criminal prosecution. Mr. Mackenzie, being called before the grand jury, declined to make any complaint; and the question was raised by some of the journals, whether it was not the duty of the Attorney General to take proceedings criminally against the press rioters. The counsel for the defendants gave as the reason why the Attorney General had not proceeded by criminal information, that it would have brought on him the censure of having desired to prevent the plaintiff obtaining damages in a civil action; as if the one proceeding in any way precluded the other. When afterwards, in April, 1828, the Attorney General prosecuted Francis Collins of the *Freeman* criminally for libels upon himself, he appeared to be considerably embarrassed at the novelty of the proceeding he had initiated; and a remark he made led to a singular piece of fencing between himself and Judge Willis, between whom there was very little good feeling. On the Attorney General remarking that, during the ten years he had had the office of Crown Lawyer, he had uniformly abstained from instituting criminal proceedings unless upon complaint made; the judge remarked that this was proof that his practice had been uniformly wrong. The Attorney General, nettled at the reproof, said he believed he knew his duty as well as any judge on the Bench; an assertion which drew from the judge the caustic rejoinder: "That may be; but you have neglected it." The Attorney General then assured his

lordship that he should continue to follow the practice he had hitherto pursued; when the latter informed him that, in that case, it would be his duty to report such conduct to the British Government, and that while he sat in the Chief Justice's seat, it was his place to state to the Crown officers their duty, and theirs to perform it.

It became afterwards a common complaint with Mr. Mackenzie's political friends and business rivals, that the damages obtained were in excess of the actual loss. It is possible that this may have been the case; for he himself became convinced, after the office was reestablished, that he had at first overestimated the loss. But it was not upon his representations that the amount of the verdict was determined; and as Mr. Bidwell had insisted strongly on the necessity of exemplary damages being given, it is possible that the jury did not altogether overlook this hint. But such pretences, as afterwards found persons to utter them, that "the loss was not fifty dollars," were too evidently charged with malice to be entitled to the least consideration.

But though Mr. Mackenzie refused to ask the grand jury to initiate criminal proceedings against the rioters, the matter was not allowed to rest. Francis Collins, having been proceeded against criminally by the Attorney General, for four libels,* in April

* Mr. Mackenzie, objecting, in his journal, to the composition of the grand jury as unfair, showed himself possessed of that sort of power which moves the masses into action. A short extract will serve as a sample:

"Wherever the seat of justice is open to corruption, there ought the sentinel of liberty, 'a free press,' to alarm the country; it should 'cry aloud and spare not.' And if the day should ever come upon us in this favored land, when men in power, forgetful of the public good, and mindful only of their private gain, shall desire to intimidate the public journals and to harass their pro-

1828, retaliated upon the party of his accusers. On information laid by him, seven of the defendants who had been cast in civil damages for the destruction of *The Advocate* office, were tried for riot. Raymond Baby was not among them. This proceeding being of a retaliatory nature, and taken against the wishes of Mr. Mackenzie, was not looked on with much favor; and though the defendants were found guilty, they were let off with nominal damages.

But Collins did not stop here. He procured informations against Henry John Boulton and Jas. E. Small, for murder, arising out of their connection with a duel, in which Mr. John Ridout, son of the Surveyor General, had been shot by Mr. Samuel Peters Jarvis. Mr. Jarvis was not included in the indictment, having been previously tried and acquitted. When on the 12th of April, the grand jury brought the "true bill" into court, Col. Adamson, the foreman, was greatly embarrassed. Mr. Justice Willis, though he could have had no personal sympathy for one of the accused,* shed tears. Mr. Boulton, who filled the high

prietors on frivolous or imaginary charges of libel and sedition—let the people look to it. Their last, their best, their sure, and only safeguard from dark oppression and misrule is about to be butchered in the public streets. Their lives, their fortunes, their religion, and the quiet of their domestic hearths, are menaced. The walls of the citadel begin to crumble, the strong tower of freedom totters at its base. Again we say, danger is at hand, LET THE PEOPLE LOOK TO IT."

* Judge Willis afterwards expressed a contemptible opinion of the Solicitor General's legal qualifications; referring to a statute, "in order," as he said, "that it may be seen what reliance is to be placed on the opinion of Mr. Solicitor General Boulton." Dr. Baldwin stated before a Committee of the House of Assembly, June 28th, 1828, "I cannot help thinking that he (Judge Willis) was rather more lenient in his charge upon the indictments of Mr. Boulton, Mr. Jarvis, and the type rioters, than the occasion required."

position of Solicitor General, lost his usual sprightliness of manner, and sat silent and thoughtful beside Attorney General Robinson. A pin might have been heard fall in the crowded court-room. When the thirteen jurors had made their presentment, the colleague of the accused Solicitor General rose by his side, and said he should frame the indictment against Messrs. Boulton and Small, as accessories of Jarvis in the fatal duel. The Court made no remark. Judge Sherwood had been sent for; but when he came, he retired into the grand jury room instead of taking his seat on the bench beside the Chief Justice.

Mr. George Ridout, the advocate of Collins, came into court, and moved that the name of Col. Fitzgibbon be struck off the list of grand jurors, on the ground that, having protected the type rioters, he was not a proper person to be on the grand jury. Had he not been there, Mr. Ridout contended, the true bills against Collins would not have been presented. He read a letter written by Col. Fitzgibbon, on the type riot, to show that his objection was well founded. The Attorney General objected, and the court reserved its decision.

The trial for murder lasted two days, and was protracted the first night two and a half hours beyond midnight. "The candles, untrimmed," wrote Mackenzie, "yielded a faint and glimmering light upon the judgment seat; the presiding minister of justice in his long black robe, was supported by the associate judges and surrounded by the officers of the court." There was a dense mass of human beings in the court, all still and attentive listeners "to a tale of misery, of

horrors and of woe, such as mortal man has seldom heard." The defendants were acquitted; and the judge expressed a desire that the proceedings might not be published at length, but only the result stated; a wish that seems to have met a general compliance on the part of the press.

Though the trial of Collins was not proceeded with, the government paper announced that it had not been abandoned; and it came on at the next assizes.

Nor had the end of judicial retaliations yet been reached. Mr. Mackenzie was not to escape. And yet he deserved some consideration at the hands of the official party. When called as a witness in the type riot prosecution, which he had refused to originate, he said he had no desire to prosecute the rioters against whom civil damages had been obtained; and he expressed a hope that they would receive only nominal punishment. His suggestion had been acted upon. But all this did not avail, at a time when Collins was proceeded against for four libels in Upper Canada, and Mr. Neilson for an equal number in Lower Canada. It was not Mr. Mackenzie's fault that the old duel case had been raked up; but one of the crown officers had been put upon his trial at the instance of another editor; and why should Mr. Mackenzie escape when crown officers were in question? Accordingly, on the 17th of April, the grand jury made a presentment against the editor of *The Colonial Advocate*, for an alleged libel* published in that paper on the 3d of that month.

* The following is the paragraph charged as libellous:

"VALUABLE REPORT ON THE CONDUCT OF THE CROWN LAWYERS.—Always

Being in Court when the presentment was made, Mr. Mackenzie went to the Attorney General, and told him that he should be ready to proceed with his defence next day. The zeal of the grand jury appears not to have been readily seconded; for when Mr. Mackenzie applied personally to the Court to recommend the crown lawyers to bring the charges to trial, the Attorney General refused to proceed with an indictment. On the night after the presentment was made, the defendant collected a long list of very miscellaneous authorities,* by the aid of which he felt con-

anxious to inform our readers of the most important proceedings of the Colonial Legislature, we hasten to direct their attention to the report of a select committee of the House of Assembly on the petition of Mr. Forsyth, of Niagara Falls, loudly complaining of the conduct of the crown officers, and of a defective and partial administration of justice. The report speaks a language not to be misunderstood, and we trust that a perusal of it will serve to stir up the dormant energies of the wholesome part of the population, and induce them to exert themselves manfully to clear the House of Assembly next election, of the Attorney General, Speaker Willson, Jonas, David and Charles Jones, Messrs. Burnham, Coleman, Scollick, Gordon, McDonell, Beasley, Clark, McLean, Vankoughnet, and the whole of that ominous nest of unclean birds which have so long lain close under the wings of a spendthrift Executive, and (politically to speak) actually preyed upon the very vitals of the country they ought to have loved, cherished, and protected. No wonder it is that Parliament should find its energies all but paralyzed, when such an accumulation of corrupt materials is left UNSWEPT WITH THE BESOM OF THE PEOPLE'S WRATH from out of these halls they have so long and so shamefully 'defiled with their abominations "

* "Blackstone's Commentaries; A file of the Advocate, from 1 to 150; A few choice selections from the U. E. Loyalist; Journals of Assembly, 1820, 1825, 1826, and 1827; Burnett's History of his own Times; A speech of John Horne Tooke; The Bible; The Book of Common Prayer; Edinburgh Review, 1811, article on 'The Liberty of the Press;' Gourlay's Statistics, 3 vols.; Simpson's Plea for Religion; Swift's Works, a volume containing 'The Drapier,' &c.; The Roman Missal; The Alien Question Unmasked; Earl Stanhope's Rights of Juries; A volume of Erskine's Speeches; Dr. Towers on Libel; Hone's three Trials; The Black Book, or Corruption Unmasked; Selections cut out of files of the Times, Globe and Traveller, and Courier, London daily papers,

fidest he should be able to make out his case. His own account of his preparation for a forensic display, in self-defence, may here be given:

"I carried into Court, tied up in a large bundle [of books] with striped tape, and having placed them before me on the barristers' table, began to arrange them after a very imposing legal fashion, having by me my memoranda of references, by which, as to an index, I could refer to the newspaper, book, or paper wanted, and bring forward the proofs or arguments on any subject connected with the matters set forth in the alleged libel, in a moment of time. By a little exertion over night, but far more by anticipation at former periods, I had before me a collection of materials fit and relevant for my purpose; and had I been allowed to go into the merits of the case, it would have defied all the Attorney Generals in British America to have furnished an opposing argument equally solid, strong, and convincing. I had carefully consulted both the law and the practice. I had, in fact, done all that man could do to give the judges and crown lawyers such a dose as would have cured their itching for state prosecutions on alleged political libels for a long time to come."

by myself, and reserved for a case of libel, as fair specimens of the style of political discussion in use by the respectable London periodical press; *Babington's* the Great; *Junius Peter Watson's Trial*; *Dr. Strachan's Pamphlet* and *Chart*; *Trial of J. A. Williams* for a libel on the Durham Clergy; and selections cut out of Parliamentary speeches, published in the *U. E. Loyalist*. These with Mr. Stanton's '*Yankee Doodle Committee Report on Captain Mathews*;' '*The Rejected Addresses*;' *Cobbett on the Freedom of the Press*; *The Freeman*, containing Peter McPhail's effort at the York Independence meeting, and several other documents.'

Instead of being put upon his trial for the alleged political libel, Mr. Mackenzie had to give security to the amount of £200, that he would answer the charge at the next assizes; a delay of which he thought himself well entitled to complain.

CHAPTER VII.

AN Event that lessens the Popular Faith in the Impartial Administration of Justice—Removal of Judge Willis by the Local Executive—The Cause of the Difficulty—He is falsely accused of Displaying Temper in Court—A wordy Duello between Judges Sherwood and Willis—Leading Members of the Bar side with Judge Willis in the Legal Dispute—Decision of the Privy Council Unfavorable to Judge Willis—Collins convicted of Libel on the Attorney General, fined £50, and sentenced to a year's imprisonment—Worse Offenders of another Political Stripe overlooked—The Fine paid by Subscription—A Committee of the House desire to interrogate Judge Sherwood about his Direction in the Collins' Case—He refuses to have his Judicial Conduct inquired into, but gives the Information to the Executive—The Assembly denounce his Direction; but the Privy Council pronounce it all right—The Libel Prosecution against Mr. Mackenzie abandoned—Murder of one Knowlan, a Powerful Bully, by Charles French—The latter, a Witness in the Type Riot, is Executed.

BEFORE the trials for libel could come on, an event occurred, in the removal of Judge Willis, which was not calculated to inspire the defendants with confidence in the impartial administration of justice. If the local Executive suspended a judge, because his interpretation of the law did not accord with their views, the power of the Executive in political prosecutions could not but be regarded as a source of danger to public liberty. Mr. Willis had only received his appointment on the eleventh of October, 1827; and on the sixth of the following June, he was suspended until the pleasure of His Majesty's Imperial Govern-

ment should be known. We have seen that, far from bending to the influence of power, he had undertaken to teach the Attorney General his duty. In the Hilary term of Michaelmas, then past, Mr. Justice Willis had taken his seat on the bench beside Chief Justice Campbell and Mr. Justice Sherwood; and differences of opinion on points of great legal importance had arisen among them. Before the following Easter term, the Chief Justice had obtained leave of absence; and the differences of opinion between the two remaining judges, Willis and Sherwood, were carried to such a length as to excite public attention. Under these circumstances, Judge Willis directed his special attention to the Constitution of the Court; and he found that the statute creating this tribunal provided "that His Majesty's Chief Justice, together with two puisne judges, shall preside in the said Court." Considering the Court illegally constituted without three judges, he refused to sit with Mr. Justice Sherwood for his only colleague, when, according to his reading of the law, there ought to be another. Sometime before Trinity term, it came to the knowledge of the Provincial Government that Mr. Justice Willis had come to this conclusion. When the opportunity presented itself, he delivered his opinion at length on the subject. Having dealt with the question of what was required, under the Provincial statute, to constitute a legal Court of King's Bench, he touched upon the cause of the legal inefficiency of that tribunal. The Chief Justice had obtained leave of absence; but he had obtained it from the Lieutenant-Governor alone, while Mr. Willis

contended that the consent of the Governor in Council was necessary.

The opponents of Mr. Justice Willis accused him of showing temper in the delivery of his opinion; but the accusation, when sifted, was found to be groundless. A Committee of the House of Assembly, of which Dr. Baldwin was Chairman, reported that they had "particularly inquired into this matter," and came to the conclusion, "that to the public eye and ear, the manner and language of Mr. Justice Willis, on the occasion of so expressing his opinion on the Bench, relative to the defective state of the Court, in no respect departed from the gravity and dignity becoming him as a judge; and peculiar malevolence alone could represent it otherwise." The evidence fully bore out this statement. "When Mr. Justice Willis delivered his opinion," Mr. Carey* told the Committee, "his conduct was dignified and honorable."

When Mr. Justice Willis had concluded his opinion, an unseemly spectacle took place. Mr. Justice Sherwood ordered the clerk to adjourn the Court. Mr. Willis replied that it was impossible to adjourn what did not exist. There was no legal Court. Mr. Sherwood rejoined: "You have given your opinion; I have a right to mine, and I shall order the Court to be adjourned." "He spoke," says Mr. Carey, "apparently under great irritation." Mr. Willis bowed and withdrew, the clerk obeying the order of the remaining judge.

The difficulty that had occurred between Mr. Jus-

* Mr. Carey was editor of the *York Observer*, and had long been a firm supporter of the government; but at this time he was wavering in his allegiance.

tice Willis and Attorney General Robinson, on a previous occasion, was also made a subject of inquiry before the Parliamentary Committee; and Mr. Carey, in his evidence, stated that so far as manner was concerned, the only thing to complain of in the judge, was his too great lenity in presence of the treatment he received.

Dr. Baldwin, Mr. Robert Baldwin, and Mr. John Rolph, practising barristers, entered a protest against the legality of the Court, when it had been constituted with two judges; giving at length their reasons for agreeing with Judge Willis, that in order to a legal constitution of the Court, there must be three judges. A petition, which the Duke of Wellington thought deserved no particular notice, bearing the signatures of thousands of Upper Canadians, in favor of the independence of the judiciary, and sustaining the position of Judge Willis, was sent to the King and the two Houses of Parliament. The law point was finally decided by the Privy Council adversely to the views of Mr. Justice Willis, whose removal was thereupon ratified by the Imperial Government.

It was now certain that the juries who might try the libel cases, would not be directed by Mr. Justice Willis, but by some one whose affinity to the prosecutors was undoubted. Soon after this time, Mr. James Stephens, then counsel to the Colonial Office, told a Committee of the House of Commons, that "throughout the colonies a body of gentlemen are acting as judges, who, however accomplished in other respects, are totally destitute of legal education." If, in addition to this they were also mere dependents of the

Executive, the case must be much worse. Soon after the commencement of the York assizes, which opened on the 12th October, 1828, the libel prosecutions against Collins came on. Of that upon the Attorney General, he was found guilty, and sentenced by Mr. Hagerman—who had temporarily gone upon the Bench, leaving the Kingston collectorship of customs to take care of itself—to be imprisoned for twelve months in the York jail, and pay a fine of £50. The libel consisted of imputing “native malignancy” to the Attorney General, and stigmatizing, as “an open and palpable falsehood,” a statement made by that functionary in open court.*

It is not necessary to raise the question whether such libels as this ought to have been met by a criminal prosecution. But if it was the duty of the Attorney General to prosecute Collins, it was also his duty to

* Collins was a man of uncouth exterior, but was possessed of considerable ability. When Dr. Horne, in whose office he was a printer, gave up the publication of the *Upper Canada Gazette*, Collins applied for the post of King's Printer, and was told in reply, that the office “would be given to none but a gentleman.” Being disappointed in the attempt to dispose of his services to the government, he some time afterwards commenced the publication of an opposition paper, a very slight acquaintance with which will convince any one that in spite of his natural ability he sometimes mistook coarseness for strength of language. He was an excellent reporter, and for several years acted officially in that capacity, as the servant of the House. It was not his habit to write his articles. He put them into type as he composed them. He had the strange vanity of boasting his descent from royal personages, and was naturally laughed at for his pains. When he was incarcerated for libel, Mr. Mackenzie did all he could to secure his release, a service which he repaid with the blackest ingratitude and the coarsest abuse. From sheer business jealousy the *Free-man* had at all times been excessively abusive of Mr. Mackenzie, a coin in which the latter never stooped to repay him. But, with all his faults—and who is faultless?—Collins must be admitted to have done good in his day. He died of cholera, in 1834, when Mr. Mackenzie held the position of first Mayor of Toronto.

prosecute others, connected with the government press, who had used fully as great a latitude of expression. One of these writers* had signalized several members of the Legislative Assembly as "besotted fools," actuated by no other feeling than malice, to gratify which they pay no regard to truth or decency. Addressing a single member, the same writer informed him, "There are no bounds to your malice;" and the whole House was described as an "intolerable nuisance." "The poison of your malignant disposition," also made use of, was an expression fully as offensive as "native malignancy." If it was the duty of the Attorney General to prosecute for the use of such language, he was bound to perform that duty impartially, and was not entitled, in fairness, to single out opponents for victims, while the offences of political friends were overlooked.

A public subscription was raised to pay the amount of the fine; public meetings were held and committees formed to take the case of Collins into consideration. To a petition for his release, the Lieutenant-Governor, Sir John Colborne, who had but recently arrived in the Province, replied, through Assistant-Secretary McMahon, that he respected the liberty of the press very much, but that he had an equal respect for trial by jury; and that the danger of interfering with their decisions must be very great, unless when they are clearly illegal. This was on the 8th November, and ten days later Mr. Collins's petition for a remission of the sentence elicited a direct negative, through Mr. Secretary Mudge, who was instructed to add, that

* *Kingston Chronicle.*

at the expiration of his term of imprisonment, "any application you may decide to make will be taken into consideration upon the facts alleged in your statement," which, at this distant day, reads very much like a mockery of the prisoner's misery. At a later period the House of Assembly interposed in behalf of Collins, but they failed to change the determination of the Executive to keep him in close confinement for the whole of the prescribed term of his sentence. Sir John thought himself entitled to snub the House for their interference, by expressing extreme regret at the course they had taken. He forgot that the Sovereign whom he represented is the fountain of mercy, and thought only of his obligation to carry a rigorous and cruel sentence into effect.

The Assembly's committee called upon Mr. Justice Sherwood to give evidence in the case on which he had presided, but he refused, rightly most persons will now think, to have his judicial conduct inquired into by a committee of the House, and did not answer the questions put to him. A judge is necessarily liable to impeachment for improper conduct, but not to account either to the Sovereign or to Parliament for any particular judgment he may have given. But if the House of Assembly was wrong in demanding to know from Judge Sherwood the grounds on which his judgment was based, and he was right in refusing to answer, he was wrong in giving to the Executive government, as he afterwards did, the information he had refused to the House.* Mr. Hagerman, who

* The Legislative Assembly pronounced Mr. Justice Sherwood's charge "an unwarrantable deviation from the matter of record, and a forced construction

was acting as judge at this time, was also called before the committee, but he refused to answer the questions put to him, on the ground that they impeached the conduct of a brother judge. The Legislative Assembly having denounced the conduct of the judges, and the matter having been made a subject of complaint in a petition to the Imperial authorities, the case came before the law-officers of the crown, in England, for their opinion thereon. They reported that they saw nothing objectionable in the direction of the judge or the verdict of the jury.

The threatened prosecution of Mr. Mackenzie for an alleged political libel had been kept suspended over his head for nearly a whole year, when a day was fixed by the Attorney General to strike a special jury, which had been demanded by Mr. Mackenzie, when he found that the list of petty jurors had not been returned to the crown office as usual. Mr. Sullivan having unsuccessfully applied for the list, on behalf of Mr. Mackenzie, went to Sheriff Jarvis to inquire the cause; when he was informed that Mr. Justice Sherwood had directed him not to return the list as usual. For some reason, however, the Executive re-

of language, contrary to the ends of fair and dispassionate justice." They also resolved that "Mr. Justice Hagerman one of the persons alleged on the record to be libelled, refused to receive the verdict first tendered by the jury, viz: 'Guilty of libel against the Attorney General only,' with which direction the jury complied, whereby the defendant was made to appear on record guilty of charges of which the jury had acquitted him, and whereby false grounds were afforded upon the record for an oppressive or unwarrantable sentence." "Mr. Hagerman," it was further declared, "did concern himself with Mr. Justice Sherwood in measuring the punishment of defendant; thereby, without necessity for it, violating the rule that a man shall not be judge in his own case "

solved to abandon the prosecution, and two days before the date fixed for the striking of the special jury, the Attorney General addressed a note to Mr. Sullivan stating the conclusion that had been arrived at.

The alleged libel, of which the prosecution was thus abandoned, was purely political. It was neither more nor less than a recommendation to certain constituencies to change their representatives at the then next ensuing general election; and expressed in language that must be admitted to have been very strong, but also very general, why this should be done. "The besom of the people's wrath" may be an alarming figure of speech; but after all it is only a figure. Connected with a general election, it ceases to wear a terrific aspect, and becomes a mere question of defeating certain supporters in the Legislative Assembly of the ruling minority. The report of a committee of the House, on which the paragraph was founded, contained more serious accusations than the alleged libel itself. The committee, of which Mr. Beardsley was chairman, reported, among other things, "that some of the most daring outrages against the peace of the community have passed unprosecuted, and that the persons guilty have, from their connections in high life, been promoted to the most important offices of honor, trust, and emolument, in the local government." Surely this more than justified a recommendation however strong the language in which it was conveyed that the supporters of such a state of things should be rejected by the people, at the next general election. It was certainly a wise resolution to abandon the pro

secution, whatever may have been the cause* that led the government to its adoption.

About two years after the type riot, a tragical event, which bore some relation to it, took place. Charles French, who was in Mr. Mackenzie's employ, as printer in 1826, and was one of the principal witnesses on the trial, became a marked man. He tried to keep the rioters out of the office, and was a principal agent in their conviction. At this time, there lived in York an Irish laborer, of the name of Knowlan, a stalwart and pestiferous bully, standing considerably over six feet high, and possessing great muscular power. Accustomed to carry a pair of short iron tongs concealed about his clothes, to attack persons in the street, and insult them at the door of the theatre, he was the terror of the place. As savage as a gorilla and twice as vicious, Knowlan was the man who undertook to execute vengeance upon Charles French. During the winter of 1827-8, French had fallen into habits of dissipation, and got accustomed

* Mr. Mackenzie, writing of the result at the time, says:—"We can only conjecture the cause for this new and judicious procedure. 1st. We should think that Sir John Colborne would be ill inclined to administer to the legacy of prosecutions bequeathed to him by his predecessor. 2d. That there were very poor hopes of success, in the present state of public opinion, as must have been evident from the facts that the alleged libeller had, after giving the libel the greatest possible circulation, after presentment, been returned to the Assembly for the county where he resided, and where the offensive libellous matter had been previously published. 3d. That the country is disgusted with the cruel and vindictive punishment awarded to the editor of the *Freeman*. 4th. That the libel is *true* and not *false*, as stated in the indictment. 5th. That the committee of the Commons of England had deprecated this sort of prosecutions. 6th. That the people's representatives, in Parliament assembled, had addressed the throne on the injustice and the partiality hitherto pursued in libel cases, and pointed out to His Majesty its bad effects."

to divide the late hours of the night between the dram-shop—of which there were sixty in a town of less than two thousand inhabitants—and the theatre. He occasionally took a subordinate part among the actors. Remaining out very late one evening, and returning flushed with liquor, French met Mr. Mackenzie's remonstrance with abuse, and was dismissed, in consequence, from his employment, on the 6th of May, 1828. About a fortnight after, he was seized upon one night by the bully Knowlan, who, in answer to an inquiry from Mr. Charles Baker, said he was going to carry him to the river and drown him. In releasing his victim, whom he had hoisted upon his shoulder, Knowlan threatened, with an oath, that he "would settle him yet." On the 4th of June, Knowlan was at the militia training, where he assaulted a constable, and was to have been brought up next day for the offence. But death intervened. Knowlan was at the theatre that night, with his tongs, as usual. When the play was about half over, in an insulting manner he went up to French, and taking out his tongs, he was heard to swear that he would measure them over the head of French and those of two or three other persons, if he only had them outside the theatre. French, who was of a naturally mild disposition when sane and sober, was subject to violent fits of insanity; and liquor, when too freely taken, produced the most terrible effect upon him. He had been drinking, and became excited by the menace of Knowlan, aggravated as it was, by a hideous contortion of his brows, and recalling, as it must, the threat which Knowlan had made against his life, a fortnight before. Besides,

French was suffering from a pain in the breast, occasioned by a blow from the ruffian, some time before. It was while listening to "Tom and Jerry, or Life in London," that French became alarmed at Knowlan's threats. He mentioned the circumstance to one William Gedd, saying he felt his life in danger, and was without any means of defence. A person named Gosling, a boon companion of French, hearing of this, went to one Wm. D. Forest, and asked to borrow from him a pistol that was in his possession. French, being called out of the theatre, was informed by Forest, that, though he had but one pistol, and that a borrowed one, he would let him have it. It was loaded with ball. French returned to the theatre, but left before the farce was over, and took more drink. About midnight, when he and three companions were returning from drinking at Howard's, they met Knowlan walking a little behind some of his associates. French having spoken to him, Knowlan asked with an oath, why he was standing there? He approached towards French, and raised his hand, as French supposed, to fulfil his threat, when the latter fired the pistol, and shot Knowlan through the liver. Knowlan died eighteen hours after he received the wound; and French was found guilty of murder and sentenced to be hanged. The trial took place on the 17th of October, and the execution was to follow in three days. In a few hours, a petition for the mitigation of punishment, was signed by eleven hundred persons; it was taken to the Lieutenant-Governor, at Stamford; but the only result was a respite till the 23d, six days

after the trial, when the sentence of death was carried into effect.

In a statement made by French, in his last moments, he reproached himself with the reflection, that, "had I attended to the oft-repeated advice of my friends, especially my dear mother and Mr. Mackenzie, and avoided bad company and drinking, I should not now be here; but I would not attend, and now I have to suffer."

CHAPTER VIII.

Effect of the Destruction of the Advocate Printing Office contrary to the Expectations of its Perpetrators—Pecuniary Embarrassments—Fever brought on by Anxiety and Vexation—Herculean Feats by the Midnight Lamp—Tableau of an overworked Newspaper Editor—Haunted by Ague—Sickness and Death in the Family—Robert Randall; his Influence on Mr. Mackenzie—Acting in Concert with Mackenzie and others, Randall goes to England with Petitions on the Alien Question—The Pocket Test of Patriotism—Letters to Earl Dalhousie—Statement of the Alien Question—British Subjects made Aliens by the mere Act of Passing through a Foreign Country—Difficulty of the Question; Its final Settlement—Mr. Mackenzie's Faith in Appeals to the Colonial Office.

VIOLENCE is a blindfolded demon, more likely to defeat its own objects than to attain them. The means taken to crush a public journal, obnoxious to the ruling faction, proved the cause of its resuscitation and firm establishment. At the very time when the press was broken and the type thrown into the bay, the last number of *The Advocate* had been issued. The fact was not known to Mr. Mackenzie's enemies, or they might not have smote the lion that was supposed by its own keeper to be dead, and thus recalled its suspended energies to life and action. The publication, burdened as it was with a postal tax payable in advance, and addressing itself to a small scattered community, had never repaid the expenditure necessary to sustain it. What means its proprietor had made in trade

were soon dissipated on the literary speculation. Between *matériel*, and debts, and losses, the publisher had been brought to a dead stand, and was unable to make further way. In winding up the mercantile business, many debts had been left uncollected and were still unpaid. What between purchasing land and building, buying printing materials and carrying on an unprofitable publication, he had gone beyond the compass of his available capital. He was threatened with prosecution for debt. In May, 1826, he was offered a loan of money that would have relieved him; but it was only for three months, and he could not assure himself of his ability to repay it in that time. His property, real and personal, was worth twice the amount of his debts; but he was embarrassed for ready money; threatened with *capias* by one creditor, and thoroughly disheartened. From these embarrassments he resolved to free himself. With the consent of Mr. Tannahill, his principal creditor, Mr. Mackenzie went to Lewiston, in order to prevent the accumulation of law costs, till his affairs could be settled. To have continued the paper another year, even if money could have been raised, would have been absolute ruin. From Lewiston he wrote, on the 27th of May, to Mr. Cawthra, at York, proposing to place the whole of his property into the hands of three trustees to be sold; and after the claims of his creditors had been satisfied, the balance to be handed over to him. "The place at Dundas," he wrote, "you could quickly dispose of; and that place is the one I am least willing to give away; but let it go for what it may fetch." His enemies afterwards pretended that he had gone

to Lewiston for the purpose of defrauding his creditors; but this calumny is sufficiently disproved by his letter to Mr. Cawthra, and by the fact that, while there, he voluntarily granted a *cognovit* covering the amount of the whole of the claims against him by his creditors. This was done three days before the destruction of the printing office; and consequently before any new reason had arisen for his immediate return to York. After it was all over, the creditor, by whom he had been threatened with *capias*, confessed, in writing, "I have not done by you as I would have wished."

Besides, his health was broken; and he had some time before been thrown into a fever by the vexation he had suffered. His eldest daughter had died, and another member of his family was ill. Under these circumstances, it is not surprising that he should have sighed for that repose which journalism had interrupted in the first instance, and of which it still continued to prevent the return. But while he loved repose, he had not been able to resist the excitement of the semi-public life of the journalist, who already dreamed of the overthrow of an administration and the reform of the oligarchical system then in operation. He who repiningly compared his own toils to the quiet life of the farmer would sit up whole nights, laboring assiduously to accomplish political ends. Though he could be a child among his children, and was never so happy as when he joined in their play, he would frequently sit up for two consecutive nights, at the patient but exhausting labor of the pen. And if the pen be more powerful than the sword, it is also, in the hands of the overworked journalist, more dan-

gerous to himself than is the active use of the sword to the soldier. A fevered pulse, an aching head, and all the long train of horrors resulting from a disordered stomach, are his portion. With him life is little else than endurance. The strongest nerves become unstrung, and the most powerful frame gives way. Mr. Mackenzie was blessed with a constitution, such as not one man in ten thousand possesses. It has been said of Lord Brougham, that he has been known to work for six days and six nights without ever going to bed. At a later period of his life, this extraordinary feat Mr. Mackenzie actually performed. On the occasion of these long vigils, when drowsiness came on, he would have water poured upon his head, and, thus roused up, take a fresh start. When overtaxed nature could no longer be resisted he would sleep a few minutes in his chair, then, waking, would walk round his room a few times and recommence his never-ending task. It is, or used to be, thought a great feat for a man to walk a thousand miles in a thousand hours. The overworked journalist has his mile to walk every hour of his life, and when he comes to the end he is in his grave! He goes there, too, much before his appointed time; or, if all things be appointed, it is his lot, by a violent wear of the constitution, to carve out for himself an early sepulchre. The sixty-seven years that he lived carried Mr. Mackenzie almost to the allotted limit of human existence, but if his marvelously strong constitution had had fair-play, there must have been fully twenty years more wear in it. But after all, the wonder is that he lived so long, when his mode of life and what he was

called upon to endure are considered. Soon after his arrival in Canada, he took ague in Kingston; it went with him to Dundas, and appeared with greater intensity after his arrival in Toronto, then called York. To the last, he was subject to that modification of it which is known as "dumb ague." He was subject, at infrequent intervals, to terrible pains in the head—one of the well-known symptoms of over-mental exertion. Of the time previous to the destruction of his printing office, he has left it on record: "My health had for three or four months been in the most precarious state, and much sickness in my family had depressed my spirits beyond any thing I had ever felt or endured before." In Queenstown he lost his eldest daughter, born at Dundas, at the age of eleven months; and in York, near the close of 1824, his second child, born at Queenstown; also a daughter, died of small-pox. One of the competing newspapers showed its sympathy by hinting that the infected neighborhood of the rival's house and office had better be avoided. And the suggestion was not unheeded; for such was the terror of small-pox in those days, that while it was in the house the only stranger or neighbor who crossed the threshold was the elder Mr. David Patteson, an ironmonger at York, whose deeply scarred face was his best security against the danger of infection. The condition of his own health, as well as domestic and pecuniary reasons, made Mr. Mackenzie desirous that his connection with the press should cease.

At the time of the destruction of his type and press, Mr. Mackenzie had a contract for printing the journals of the Legislative Assembly, at the rate of about

six dollars a page; but whatever profits were made out of other printing were swallowed up by the newspaper, or scattered over the country in the shape of doubtful debts. Besides, he was constantly printing for gratuitous distribution political squibs, in various shapes and forms; an operation which did not tend to improve the state of his exchequer.

It often happens that the influence of one individual upon another, at a critical period of his life, shapes and moulds his destiny. Was Mr. Mackenzie subject to any such influence? Perhaps this question cannot be satisfactorily answered. While living at Queenstown, he became acquainted with Mr. Robert Randal, a Virginian by birth, (and a near relative of John Randolph, of Roanoke,) who had come to this Province as a permanent settler, and was then living at Chippewa. Randal was a politician, and it is probable that his influence on Mr. Mackenzie first led him into politics. The proof is not clear; but Mrs. Mackenzie is of that opinion. Randal was a man who, with a keen eye to the future, selected land at different places where future towns were certain to spring up. He was entangled in law suits, involving property to a very large amount; and in one way or another was cruelly victimized. His lawyers played him false, and the officers of the law conspired to defraud him. He became involved in pecuniary embarrassments, and was charged with perjury for swearing to a qualification which, based on a long list of properties the ownership of some of which litigation had rendered doubtful, was declared to be bad. Mr. Mackenzie took his part; they continued to be

firm friends, and when Randall died he bequeathed a share of his property to the man who had in some sort been his protector. The connection produced its effect upon Mr. Mackenzie for life. Long before Randall's death, Mackenzie had embraced his quarrels, and made them his own. They were afterwards to become his inheritance; and they were well calculated to assist in embittering the existence of one of his keen susceptibility.

In the spring of 1827, Mackenzie raised the question of sending to England an agent to plead with the British Government the cause of the American-born aliens, in Canada. A petition, said to have been signed by fifteen thousand persons, was ready to be carried to England. A central committee, charged with the protection of the rights of the aliens, met at Mr. Mackenzie's house, and he acted as its confidential secretary. Mr. Fothergill, who had taken the popular side on the Alien question, and been dismissed from the office of King's printer, desired the mission. The central committee offered it to Dr. Rolph, who declined acceptance. The question was then between Fothergill and Randall; Mackenzie, favoring the appointment of the latter, carried his point. Randall was in the position of the persons whose cause he had to plead. On behalf of the committee, the delegate's instructions were drawn up by Mr. Mackenzie; and the committee having advanced a sum for his expenses,* part of which had

* Mackenzie makes "Tom Moore, jr.," say:—"Among the numerous petitions against the Alien Bill, we observed one from the head of the lake, signed at Flambro' west, by upwards of 100 individuals, owning property equal to at least \$200,000 value. Among this opulent portion of the people we are credibly informed that a sum equal to \$20 was raised in aid of a mission to England.

been raised by subscription, Randall set off for London, in the month of March.

In order to smooth the way for the delegate in England, Mr. Mackenzie addressed letters to the Earl of Dalhousie, Governor-in-chief, surcharged with expressions of loyalty, and recommending colonial representation in the Imperial Parliament. It is worthy of note that the first of these letters contains several extracts from American authorities predicting a dissolution of the Federal Union. After giving these extracts, the writer asks: "And is this the government, and are these the people whose alliance and intimacy we ought to court instead of those of England? No, my lord; their constitutional theory is defective, and their practice necessarily inconsistent. Their government wants consolidation; let us take warning by their example." Mr. Mackenzie afterwards expressed the opinion that these letters, taken as a guarantee for the loyalty of the opposition, materially assisted Randall's exertions in England. A few weeks later, he was writing about the "glorious opportunity of England to recover her most ancient and valuable colonies by simply giving the remaining Provinces a voice in her national councils."

There were in the Province a large number of per-

That is to say, they gave a shilling apiece, or a ten-thousandth part to save the rest!

"To keep the cause of liberty

In Italy afloat,

Illustrious Bennet's generous hand

Subscribed a one pound note!

To keep the cause of liberty

In Canada from falling,

The patriots about Dundas

Gave each a Dublin shilling!"

sons, who, though born in British Colonies, had, by the progress of events, and the effect of laws resulting from those events, lost the legal quality and privileges of British subjects. All who were born in the old American Colonies, and had continued to live there till after the peace of 1783, became, on the 3d of September of that year, by the Treaty of Independence, citizens of the United States. They, therefore, by that fact, ceased to be British subjects. Both American and English law courts agreed as to the effect of the treaty upon the nationality of those who resided in the United States, at the peace of 1783. Of those who came to Canada, after that date, many had adhered to the British standard through the revolutionary war; but among these immigrants there were doubtless many others who had not.

The laws relating to aliens were stretched so as to cover a class of persons they could never have been intended to affect. A person born in England, or Ireland, or Scotland, who came to Canada through the United States, was held to have lost the character of a British subject on the way, and to be incapable of exercising the elective franchise till he had been seven years in the country; as if the mere touch of United States soil had the magic power to divest an Englishman of his nationality, the reintegration of which was only to be obtained by a seven years' probation. Robert Gourlay, a Scotchman by birth, was charged under the Sedition Act with not having been six months in the country, nor taken the oath of allegiance.

Persons who had made immense sacrifices by adhering to the British standard during the revolution-

ary war, lost, in some cases, large amounts of property, in consequence of their inability to inherit as British subjects. The case of Elizabeth Ludlow, niece of a Chief Justice of New Brunswick, had just been decided adversely in the English courts, on the ground that her father had resided in the United States, after the Treaty of Independence was ratified; and though the whole family had made great sacrifices for the British cause, she was declared incapable of inheriting the property in dispute. A large number of Americans, whose ancestors had taken sides—some one, some the other—in that contest, were then residents in the Province. Most of them were possessors of land; and their rights were never challenged or brought in question till after the close of the war of 1812, when, under the presidency of Sir Gordon Drummond, a proclamation was issued with the view of putting a stop to the immigration of American citizens into Canada. The effect of a possible political propagandism, exercised through the medium of these immigrants, appears to have been feared. It is doubtful, however, whether this proclamation had legal ground to rest upon. Lieutenant Governor Gore, who succeeded Sir Gordon, thought it had not, and that Americans were entitled still, not only to come and settle in Canada, but also to receive such modified naturalization as the English laws had sanctioned. By a British statute passed in 1790, a seven years' residence, the taking of the oath of allegiance and the sacrament of the Lord's Supper, according to the usages of the Protestant Church, and observing other formalities, all aliens who came to the colonies could acquire the rights of

British subjects, with certain reservations. But they could not become members of the Privy Council or of Parliament;* they were incapacitated from holding any position of trust, civil or military, in the United Kingdom or Ireland; and they could not accept of any grant of land from the crown. The provisions of this statute were hardly ever complied with by alien emigrants from the United States. No distinction was made or could be made between the absconding debtor who had fled from the United States to defraud his creditors, and the loyalist, who, adhering to the fortunes of the British crown during the revolutionary war, had not left that country till after the peace of 1783, when, in spite of himself, the treaty made him an American citizen. Men whose industry had cleared the country of forests, who had carried civilization into the wilds of the west, and assisted to repel invasion, found themselves aliens, without any legal security for their property.

Whatever might be the effect of a narrow or rigid construction of the Alien Law upon these persons, they had not hitherto received the treatment of aliens. They had received grants of land from the crown and devised real property; some of them had held offices of trust in the militia, and spilt their blood in defence of the country, in which they were now to be denied the rights of citizens, except upon conditions which they regarded as degrading. It was not to be expected that a man who had fought beside the gallant Brock would feel complimented if asked to take

* In May, 1826, an Imperial Act was passed to render naturalized foreigners capable of sitting in the Legislature of Upper Canada.

the oath of allegiance. The recent decision of the Court of King's Bench, in England, in the Ludlow case, created uneasiness, alarm, and indignation. After much correspondence with the Lieutenant Governors on the subject, the Imperial Government sent instructions to Sir Perigrine Maitland to cause a bill to be introduced into the Legislature, by which all the rights of British subjects could be conferred upon the aliens in the Province. The bill passed the Legislative Council, whose members owed their nomination to the crown, in the session of 1826; and when it was sent down to the Assembly, it met an equal amount of opposition and support, on two several divisions. The House was equally divided for a whole week; and the bill, after being five times negatived by the casting vote of the Speaker, was at length irregularly passed. Though the division of numbers was so long equal, the majority of the members who spoke opposed those provisions which required all persons, placed in the category of aliens by the recent judicial decision, to remedy their former neglect by complying with certain prescribed formalities; a residence of seven years and the taking of the oath of allegiance being necessary to confer on them those rights which many of them had from the first, exercised without question. Whatever may have been the merits or demerits of this measure, it is proper to quote the declaration of Mr. Wilmot Horton, then under-Secretary of State for the Colonies, that the "Lieutenant Governor and Legislative Council of Upper Canada cannot be considered responsible for those parts of the present bill which have excited the most earnest opposition. Lord Bathurst's

instructions to the Lieutenant-Governor, founded, as they were, upon his Lordship's impression that the measure proposed would be satisfactory, were peremptory, and left the local Governor no discretion on the subject." At the same time, it is pretty certain that Lord Bathurst's impression must have been derived from the official information he received from Canada. The Imperial Government showed by their subsequent action that they were anxious to do what would give full satisfaction to the people, whose rights were in question.

Mr. Bidwell, whose father when elected for Lennox and Addington, in 1822, had been declared ineligible to take his seat in the Legislative Assembly, on account of his being an alien, proposed as an alternative measure to declare all Americans then in the Province entitled to all the rights of British subjects. The real hardship was in confounding two distinct classes: persons who were born British subjects, or whose fathers had been born British subjects, and who, so far from having done any thing to forfeit that character, had throughout been true to their allegiance, with others who had come to the Province not from political choice, but because they found emigration convenient, or thought it would be profitable. Among the latter there were some who were anxious to enjoy all the rights of British subjects without taking the oath of allegiance, and who considered it a glorious diversion to cross the frontier line to enjoy the demonstrations that take place on the anniversary of American independence. If it was desirable that these persons should submit to a formal act of natur-

alization, it was impossible to distinguish between them and others, who, having been born British subjects, had never desired to relinquish their allegiance. And here arose the real difficulty of the case.

The bill passed by the Legislature was of that nature which rendered necessary its reservation for the signification of the Royal pleasure. To prevent the Royal assent being given to it, Randal had been selected to bear the petition of some thousands of the persons whom it affected. His success was complete. The committee from whom he received his instructions consisted of Messrs. Jesse Ketchum, Alexander Burnside, Joseph Shepherd, and Thomas Stoyell. Messrs. Hume and Warburton rendered him every assistance in their power, and Lord Goderich showed the most anxious desire to meet the wishes of the petitioners. Another bill, framed in conformity with the Royal instructions, which Mr. Randal's exertions had procured, was introduced, into the Upper Canada Assembly, by Mr. Bidwell, a prominent member of the opposition. It invested with the quality of British subjects all residents of the Province who had received grants of land from the crown, or held public office, as well as their children and remote descendants; all settled residents who had taken up their abode before the year 1820, their descendants to have the right to inherit in case the parents were dead; all persons resident in the Province on the 1st March, 1828, on taking the oath of allegiance after seven years' residence in some part of His Majesty's dominions. If these persons had resided seven years in the Province, they would at the age of nineteen be

entitled to take the oath of allegiance at any time within three years. It was also provided that no person of the age of sixteen, on the 26th of May, 1826, should be debarred from inheriting property on account of its descent from an alien, and any person claiming to hold property on account of those nearer akin, being aliens, must have had actual possession and made improvements on the property before that date; a contract for the sale of property so held to be valid, if there had been no adverse possession.

The bill passed the Assembly with only such feeble opposition as the official party and their friends ventured to offer in the way of amendments. Their chagrin appears to have been shared by the Lieutenant Governor, who, in his reply to the Assembly's address informing him that they had passed the bill, petulantly threatened to tell the Colonial Secretary that it was precisely such a measure as the House had rejected in the second session of that Parliament. The House, without any such direct reference to the Lieutenant Governor as would have been unparliamentary, flatly denied this statement in the first of a series of resolutions, in which reasons for rejecting the Alien Bill in the second session were given. These resolutions, eight in number, were severally carried against the government by about two to one; and it became the duty of the Lieutenant Governor to transmit them to England. It was, no doubt, true that the bill passed was some modification of the simple declaratory measure with which the opposition had proposed to cover the whole case in the preceding session. The compromise, for such it must be called, was probably the best that

could have been devised. It shared the fate of all compromises, in meeting the opposition of a few extreme persons. The Legislative Councils altered the preamble, and amended the bill so as to prevent it repealing any statute then in force. The Legislative Assembly, after a little grumbling on the part of two or three members, accepted the amendments unanimously.

The appeal so successfully made to the Imperial Government, was suggested by Mr. Mackenzie; and it was he who got up the Committee, which decided to send an agent. He drew up Randal's instructions, and caused him to be selected in preference to another.

It often happens that some particular event produces upon the minds of even clever men impressions which, though not altogether well grounded, they never get rid of as long as they live. The success of Randal's mission to England had this effect upon Mr. Mackenzie; for, ever after, except a few years about the period of the rebellion, he believed in the specific of an appeal to the Imperial Government. His own subsequent visit to the Colonial office, and the success he met, confirmed an opinion which he cherished to the day of his death. Appeal from the oligarchy to the justice of the Imperial Government seemed at one time the only hope of the colonists, until the local Executive could be made responsible to the popular branch of the Legislature; but after the change wrought by the introduction of responsible government, Mr. Mackenzie failed to make sufficient allowance for the new state of things.

CHAPTER IX.

Mr. Mackenzie conceives the idea of Publishing a Daily Paper in Montreal—"Printer to the Hon. House of Assembly"—Not a Sure Partisan—His Estimate of the Intelligence of the Assembly in 1827—Irresponsible Government—Union of Legislative and Judicial Functions—Colonial Representation in the Imperial Parliament.

IN May, 1827, Mr. Mackenzie visited Montreal, with a view of ascertaining, from the information he could collect on the spot, whether it would be advisable to commence the publication of a daily paper there. An examination of the ground convinced him that the speculation would not answer commercially; and he returned to York, resolving not to enter on the doubtful experiment.* From the 25th of January, 1827, to the 10th of January, 1828, the imprint of *The Colonial*

* A few months afterwards—November, 1827—he gave an account of the Periodical Press of Montreal. The *Herald* printing office was then the most considerable in the British Colonies. There were, besides, the *Montreal Gazette and Herald*, the *Courant*, the *Canadian Spectator*, *La Minerve*, with very limited circulations—many farmers both in Upper and Lower Canada then receiving their intelligence of current events from oral information—the *Christian Sentinel*, a church of England journal, circulating six hundred copies a week. The *Quarterly Review* had recently died for want of support; and a new Colonial Magazine had obtained twenty-one subscribers. The *Quebec Gazette* was the only paper in Lower Canada distinguished for the attention it paid to commercial affairs. Mr. Mackenzie described it as occupying, in Canada, the position that the *Times* occupied in England, as the organ of the most respectable class of the population. A wonderful revolution in journalism has taken place since then.

Advocate described the paper as being "Printed and Published by W. L. Mackenzie, Printer to the Hon., the House of Assembly of Upper Canada." The contract was for the whole of the printing required by the House; and so low was the price that it does not appear to have been profitable. He preferred a claim for £25 extra, on account of the unusual expedition required by the House;* and although the extra sum he had paid to printers was larger than this, the claim was refused.

At no time does Mr. Mackenzie appear to have been a very strong partisan. Not that his views and position were not decided. He was strongly opposed

* In a letter to Mr. H. C. Thompson, of the Printing Committee, dated January 15, 1828, Mr. Mackenzie said:

"Last session, Mr. Carey received for work done to the Legislative Council nearly at the rate of 3s. 3d., and for work done for the Assembly 3s.; Mr. Stanton received 3s. for some, and 4s. from the government for the rest, and offered to do more for 2s. I had some at 3s., some at 1s. 8d., and some at 1s. per one thousand ems. Such a system is surely absurd and unjust. It is not my intention to ask for one farthing more than my one shilling contract; if the House are anxious to get their work done at an **fair price, and to give nobody but your brother-in-law (Mr. Stanton, the King's Printer) even journeyman's wages, I will not selfishly complain—but I wish very much their 'saving fit' would become more general in its operation. There is a law maxim which runs thus: '*Lex neminem cogit ad impossibilia*'—the law compels no man to perform impossibilities;—and upon this principle I claimed the other £25 only, not of additional price, but for double allowance made and promised my people to get forward expeditiously with the accumulated printing of the House, at hours when they should have been in bed. This claim was supported by three affidavits, setting forth the fact that such extra work had been done, and that without working almost continually, all the hands in the office (ten or eleven) could not have done the printing in time—for we were often obliged to leave off one job and begin a second, or even a third, in order to meet the new orders of the clerk.' The letter concluded with an offer to do the sessional work of the House for 1828, at twenty cents per one thousand ems composition. He also suggested a division of the work at fair prices; and this suggestion was acted upon, three printers being included.

to the ruling minority; but he was very far from having unbounded confidence in the majority of the Assembly. Of the leaders of the opposition, Messrs. Rolph and Bidwell, he sometimes spoke in sharp terms of condemnation; showing that he was under no sort of party control or leadership. When reminded by one of his own political friends in the House that certain petitions laid before the Legislature were not privileged communications; that an action for libel would lie, if they contained what the law regarded as libellous matter, and were reprinted in a newspaper; his reply was, that he intended to publish both the petitions in question in the next number of his paper, a promise which was faithfully kept.

Before the commencement of 1828, Mr. Mackenzie was a declared candidate for a seat in the next House of Assembly; and it is not impossible that he already aimed at attaining to the leadership himself. Speaking of this House as a body, in a letter to Earl Dalhousie, he said: "Many of these Legislators are qualified to sign their names; but as to framing and carrying through a bill on any subject whatever, the half of them wisely never attempted such a herculean task." And in the same letter, he expressed undisguised contempt for the whole sham of Colonial Legislatures then in vogue. "I have long been satisfied," he said, "that if the North American Colonies were rid of these inferior and subordinate Legislatures, which are and must ever be insufficient for the purposes for which they were intended; and allowed, instead, a due weight in both branches of the British Parliament, it would prove the foundation of their

permanent and true happiness." The difficulty was that these representative assemblies were mocked with a semblance of that legislative power, with the substantial possession of which they were never endowed. Even the Reformers had only an imperfect conception of the true remedy. The ministry might be subjected to a succession of defeats in the Legislative Assembly without raising a question of resignation; and the liberal journals very seldom undertook to deal with the question of ministerial responsibility. Mr. Mackenzie was the "advocate of such a change in the mode of administering the government as would give the people an effectual control over the actions of their representatives, and through them over the actions of the Executive."* Most of those who essayed to effect reforms, contented themselves with encountering abuses in detail; a mode of warfare which left untouched a radically defective system of administration.

When we look back upon the system that existed, the mind is filled with astonishment that it should have enjoyed such comparative immunity from attack. A party triumph at the polls carried hardly any of the advantages of victory into the Legislature. The members of the Executive belonged to the minority. The majority might pass bills in the Assembly; but, unless they pleased the ruling party, they were rejected by the crown-nominated chamber. There was no general separation of legislative and judicial func-

* *Advocate*, January 10, 1828.—These sentiments he claimed to have enunciated in the first number of his paper; but if so, the utterance was not very distinct.

tions ; and when the Assembly, in 1826, addressed the Imperial Government to remove the Chief Justice from the sphere of politics, the answer was that the Lieutenant-Governor had profited greatly by his advice, and that there was nothing in the circumstances of the colony to render a change of system desirable. The Judiciary and the members of the Executive received their appointments and the greater part of their pay from revenues belonging to England, on which they were largely dependent. When the House presented an address to the King, praying that the bounty lands which had been withheld from those officers of the militia who attended a convention on the grievances of the colony in 1818, Governor Maitland, by the command of His Majesty, replied, that when they expressed "deep contrition" for presuming to ask for a redress of grievances, the lands would be granted to these erring militia-men of 1812. The system reacted upon itself; the bad advice sent by irresponsible ministers from this side came back across the Atlantic matured into the commands of the Sovereign; and the name and the authority of England suffered, while the real culprits escaped the merited punishment of ejection from office by the votes of a majority of the people's representatives.

It is not surprising, under these circumstances, that a scheme so impracticable as Colonial representation in the Imperial Parliament should have been turned to, in despair, by Mr. Mackenzie. A union of the colonies, which he had often advocated, would have necessitated a change of system if it was to be an ef-

fective remedy for the glaring defects of administration which then existed.

In the commencement of 1828, while advocating a responsible Executive, Mr. Mackenzie disclaimed all "intention or desire to assist in cutting any colony adrift from its parent state." He confesses, however, that his proposal for representation in the Imperial Parliament had not met universal reprobation. The ruling faction desired to have things their own way; and so comfortable were existing arrangements that they were afraid of the effects of a change. The people were unfortunately becoming suspicious of the external influence that sustained the oligarchy; and were wisely disinclined to listen to a scheme of representation in a distant Parliament, where their feeble voice must have been drowned in the clangor of over six hundred representatives.

CHAPTER X.

Mackenzie becomes a Candidate for the Legislative Assembly—"Parliamentary Black List"—Improvement in his Pecuniary Circumstances—His Election—Complexion of the New House—Mr. (afterwards Sir) Allan McNab is declared Guilty of a Breach of Privilege, and on motion of Mackenzie sent to Jail—Mr. J. H. Boulton Reprimanded for a like offence—Mr. Mackenzie, as Chairman of a Committee on the Post-office, recommends that the Department be placed under Provincial Control—His action as Chairman on Privileges—The Chaplain of the House—The Government Pecuniarily Independent of the Assembly—The Public Debt and overdue Debentures unpaid—Mackenzie contends that all the Provincial Revenues should be placed under the Control of the Legislature—Resolutions on the State of the Province—Sir J. Colborne does not meet the Expectations formed by him—Specimen of Mackenzie's Oratorical Powers.

HAVING once resolved to seek a seat in the Legislature of his adopted country, Mr. Mackenzie waited for no deputations to solicit him to become a candidate; he submitted his claims to no clique of election managers, and heeded not their voluntary resolves. Months before the election was to take place, he issued an address* to the electors of the County of York, not

* "TO THE ELECTORS OF THE COUNTY OF YORK.—*Gentlemen*:—I have the honor to inform you that it is my intention to come forward as a candidate at the next Election of Members to serve for your County in the Provincial Parliament; and I most respectfully solicit your votes and support.

"I have no end in view but the well being of the people at large—no ambition to serve but that of contributing to the happiness and prosperity of our common country. The influence and authority with which you may invest me, shall always be directed, according to the best of my judgment, for the

very prolific in promises; containing nothing that would make more than a very meagre modern "platform;" yet it was sufficient to satisfy the people to whom it was addressed.

Mr. James E. Small was not connected with the government; but he belonged to one of the "old families" of York. He had been Mr. Mackenzie's solici-

general good; and it will be my care to uphold your rights to the utmost of my power, with that firmness, moderation, and perseverance, which become the representative of a free people.

"If honored with your suffrages, it will be alike my duty and my pleasure to watch over the local interests of this great county, and to promote every public improvement and useful undertaking, which shall be found conducive to your prosperity and the general welfare.

"I have ever been opposed to ecclesiastical domination; it is at enmity with the free spirit of Christianity; and nations which have bowed to its yoke, are become the dark abodes of ignorance and superstition, oppression, and misery.

"That corrupt, powerful, and long endured influence which has hitherto interfered with your rights and liberties, can only be overthrown by your unanimity and zeal. An independent House of Assembly, to Upper Canada, would be inestimable.

"I have been a careful observer of the conduct of the people's representatives in the Colonial Assemblies; I have seen men in whom was placed the utmost confidence, fall from their integrity and betray their sacred trust; men, too, who had entered upon their legislative duties with the best intentions towards the people, and who evinced for a time a firm determination to support their rights. But there are others who continue to maintain and uphold the interests of their country, unshaken and undismayed; who consider it their highest honor to persevere in a faithful discharge of their public duties, and eagerly strive to deserve the good will, the affection, and the confidence of their fellow subjects.

"Among this latter class I am desirous of being numbered; and, unless I shall be found deserting the cause of the people, I trust that the people will never desert me.

"Accept my sincere thanks for the abundant proofs of kindness and confidence, and for the liberal assurance of support, with which you have honored me, and believe me,

"Gentlemen, Your faithful and humble servant,

"W. L. MACKENZIE."

YORK, *December 17th*, 1827.

tor, in the famous type case; but he was astonished at the temerity of his late client in venturing unasked to declare himself a candidate for the representation of the most populous county in Upper Canada. It so happened that Mr. Small was to be a candidate for the same county. He called upon the presumptuous editor of *The Advocate*, to give him some advice about this York election. He dwelt on the folly of a person in Mr. Mackenzie's position attempting to oppose one whose long residence and family influence would be more than sufficient to secure his return. These arguments neither convinced Mr. Mackenzie nor changed his determination. He had declared himself a candidate, and a candidate he would be.

The election managers took the case of the county of York into their keeping. On the 4th of February, 1828, a committee, delegated by a public meeting held at Newmarket, tried to ballot Mr. Mackenzie out of the field. Nine votes were cast for Mr. Small, and only three for Mackenzie; while of the other candidates Mr. William Roe got fifty-seven, and Mr. Jessie Ketchum forty-one. Had not Mr. Small told him how it would be? But he was not to be got rid of in this scientific manner, and he announced:

"I have attended two public meetings, but it is not my intention to go to any more until I meet the people at the hustings—it is a needless waste of time,—and benefits nobody but the tavern-keeper. If I go into the Legislature, it must be in my own way, or not at all. For I mean to break through all the old established usages, to keep no open houses, administer to the wants of no publican, hire no vehicles to trundle

freemen to the hustings to serve themselves, nor to court the favor of those leading men who have so powerfully influenced former elections. I will not lessen my own resources for maintaining independence, by spending at the outset, as was done by others four years ago, a sum sufficient to maintain my large household for a twelvemonth; but if I shall become one of the stewards of the Province, I hope I shall be found not only faithful, but also fully competent to discharge the duties of a representative in such a way as ought to secure for me the confidence of an intelligent community."

Virtuous resolves are good; but election expenses are not easily brought under control, and no power on earth is strong enough to put them down entirely. Mr. Mackenzie's first election cost £500.

Opposed by the administration and its organs, from political reasons, Mr. Mackenzie's candidature was contested even by professed liberal journals, from a business jealousy that derived its venom from the circumstance of his own paper having a circulation larger than any rival in Upper Canada. Assailed by every newspaper in York, except his own; libelled in pamphlets, and slandered in posters, he pursued the even tenor of his way, and managed to find time for the preparation of electioneering documents, calculated to influence not merely the county of York, but the whole Province. His "Legislative Black List," early commenced and assiduously kept up, contained a short commentary on the divisions that had taken place during the two previous Provincial Parliaments, on prominent and important questions. The publication

was commenced on the 29th May, and the Provincial Parliament was not dissolved till the 24th July. Compared with electioneering documents of the present day, whether in Canada or the States, "The Black List" was mild and moderate. In republishing Mr. Small's election address, he simply appended to it, within brackets, "Printed at the Government office."

The effect of this new mode of election warfare was visible when the time for counting votes came. Mr. Jonas Jones, whose public career and conduct probably presented as few points on which admiration could find a resting place as any other Colonial politician of his time, was defeated by Mr. Buell, in Leeds. The Attorney General was re-elected by a majority of only seventeen. Mr. G. S. Boulton, brother of the Solicitor General, was rejected by the county of Durham; and several other similar results were visible at the close of the contest.

By this time, Mr. Mackenzie's pecuniary circumstances had greatly improved. In a letter, written previous to the election, he gives us some information on this point:

"By an unwearied application to business, I am now again an unincumbered freeholder of Upper Canada, to more than thrice the amount required by law, as a parliamentary qualification, besides being possessed of nearly as much more lands, with good bonds for deeds. I have also a valuable personal property, including a business which nothing but the actual knowledge of the election of a bad parliament, in aid of the present corrupt administration, would induce me to quit. Being therefore easy in my circum-

stances, entirely freed from the terrors of litigation, prosperous in my business, in good health, and owing very few debts, I have applied to the people of the most populous county in Upper Canada, for the highest honor in their gift, the surest token of their esteem and confidence."

The result showed that Mr. Small had miscalculated the relative influence of himself and his opponent.

The first session, in which Mr. Mackenzie had a seat in the Legislative Assembly, opened inauspiciously for the advisers by whom Sir John Colborne was surrounded. Having been convened on the 8th January, 1829, it soon gave proof of its hostility to the administration. The vote on the speakership, which stood twenty-one for Mr. Willson, the late Speaker, and twenty-four for Mr. Bidwell, did not at all indicate the strength of parties; for, while Mr. Willson received the support of the Government, the division showed that he still retained many friends among the opposition. The address in reply to the speech from the throne, founded on resolutions framed by Dr. Rolph, and containing the strongest expressions of a want of confidence in the advisers of the Lieutenant Governor,* was carried with the nearest possible

* "For the insurance of those most important objects, we, His Majesty's most faithful Commons, confiding in the candor of your Excellency, and in your readiness to recognize us as constitutional advisers of the crown, do humbly pray your Excellency against the injurious policy hitherto pursued by the Provincial administration; and, although we at present see *your Excellency unhappily surrounded by the same advisers as have so deeply wounded the feelings and injured the best interests of the country*, yet in the interval of any necessary change, we entertain an anxious belief that, under the auspices of your Excellency, the administration of justice will rise above suspicion; the wishes and interests of the people be properly respected; the constitutional rights and independence

approach to unanimity: thirty-seven against one.* In these days an unanimous vote of censure on the Governor's advisers produced no change of ministry. The Assembly complained of the Government, when they ought to have struck a blow at the system which rendered it possible for a party, who could command only a small minority in the popular branch of the Legislature to continue their grasp upon the reins of power.

Such was the House in which Mr. Mackenzie first held a seat; such the practice of the Government, when he first entered public life.

During this session an event occurred that brought him into collision with two members of the Legislature, who were afterwards active in his expulsion from the House, upon pretexts that were wholly inadequate to form anything like a justification. The new Governor, Sir John Colborne, had been exhibited in effigy at Hamilton, and a rumor had found currency that there was a conspiracy to liberate Collins from jail by force. Whatever connection these two subjects may have had, they were jointly referred to a special committee of inquiry. Mr. Gurnett had

of the Legislature be held inviolable; the prerogative and patronage of His Most Gracious Majesty be exercised for the happiness of his people and the honor of his crown, and the revenues of the colony be, hereafter, sacredly devoted to the many and urgent objects of public improvement, after making provision for the public service upon the basis of that economy which is suited to the exigencies of the country and the condition of its inhabitants."

* The following is the list of members:—Messrs. McDonald, Fraser, McLean, Blacklock, Shaver, Brouse, Longley, Henderson, Kilborn, Buell, Morris, Thomson, Dalton, Bethune, Radenhurst, Bidwell, Perry, Lockwood, Samson, Peterson, James Wilson, Lyons, Ewings, Smith, Ketchum, Mackenzie, Cawthra, Matthews, John Rolph, Robinson, George Rolph, Hopkins, Randal, Leferry, Terry, Woodruff, John Willson, Hamilton, Dickson, McCall, Baldwin, Horner, Malcolm, Wilkinson, Baby, McMartin, Berezy, and Fothergill.

stated in his newspaper* that the intention of certain petitioners for the release of Collins was to liberate him by force, if necessary. On the 29th January, Dr. Rolph moved that Mr. Gurnett be brought to the bar of the House to be interrogated touching this statement. When he came he refused to answer, on the ground that his evidence would implicate himself. Mr. (now Sir) Allan McNab was also among the witnesses called. He was then young and not indisposed to have the House take some action against him that might give him a chance of becoming a member of the next Assembly; so he refused to answer the questions put to him. On motion of Dr. Baldwin, he was declared guilty of a high breach and contempt of the privileges of the House. Being taken into the custody of the Sergeant-at-arms, and brought a prisoner to the bar of the House, he complained of having been tried and convicted without a hearing. His defence was not satisfactory to the House, and he was, on motion of Mr. Mackenzie, committed to York jail, under the warrant of the Speaker, during the pleasure of the House. Mr. McNab is said not to have looked upon this inconvenience as a disservice; but he would hardly consider himself bound to be grateful for it. Mr. Solicitor General Boulton was also called as a witness. He, too, thought himself entitled to refuse to answer the questions of the committee, and for this contempt and breach of privilege was let off with a reprimand from Mr. Speaker Bidwell.† Mr. Macken-

* *The Gore Gazette.*

† The history of England does not furnish a single instance of a witness persisting in refusing, like Mr. McNab and Solicitor General Boulton, to answer questions put by a committee of the House of Commons. There is, there-

zie would not have been more lenient to him than to Mr. McNab, and the Solicitor General was not of a nature to forget or forgive. Besides, he harbored contempt, not knowing that it produces its like, and afterwards failed to find in the vocabulary words to express the strength of that feeling towards Mr. Mackenzie.

No sooner had Mr. Mackenzie got into the Legislative Assembly than he became one of its most active members. He commenced as he ended, by asking for information, and probing to the bottom questions of great public interest. In the committee room he made his mark, during the first session, not less distinctly than in the House. As chairman of the select committee to inquire into the state of the Post-office department, in Upper Canada, he drew up a comprehensive report, replete with the most valuable information and suggestions. The mail service was miserably performed; and matters were so managed as to leave a considerable surplus profit, which failed to find its way into the Provincial exchequer. Not a mile of new post road could be opened, or a single Post-office established, without the authority of the Postmaster General, in England, who was necessarily destitute of the minute local information necessary for the correct determination of such questions. The postage on a letter between England and Canada ranged from five shillings to seven shillings and six pence. The tri-weekly mail between Montreal and the present city of Toronto was slowly dragged over

fore, no precedent for the punishment that should be accorded for this contempt and novel species of breach of privilege.

roads that were all but impassable ; and it was a standing wonder how the mail carriers were enabled to perform their duties westward. Mr. Mackenzie recommended, as the beginning of all efficient reform, that the department should be placed under the control of the local authorities. He also laid it down as a principle that no attempt should be made to draw a revenue from the Post-office ; but that the entire receipts should be devoted to the securing of additional postal facilities. In case the department came under local control, he recommended the retention of Mr. Stayner, then Deputy Postmaster General, on the ground that he had shown himself fully equal to the discharge of the duties. Complaints had been made, in previous sessions, that the colonists were taxed without their consent, through the Post-office department, and that the surplus revenue was never accounted for ; a complaint which had been met by Attorney General Robinson by a reference to Dr. Franklin, who was said not to have regarded postage in the light of taxation. Inquiries had been made ; but until now no bold and comprehensive remedy was proposed. Here, as on so many other questions, Mr. Mackenzie was in advance of his cotemporaries and of the times. The remedy he suggested, of placing the department under local control, came before the end of another generation ; but if it had come sooner, the Province would have been the gainer.

Nor was this the only committee of which Mr. Mackenzie was chairman. In that capacity he made a report on the privileges of the House and the conduct of returning officers at the recent election. Dr.

Powell, a previous clerk of the House, had been dismissed by the government, without reference to that branch of the Legislature whose servant he was, and his successor had been appointed in the same way. The House had silently acquiesced in the appointment of Mr. Fitzgibbon thus made, some years before ; but Mr. Mackenzie was not willing to consecrate a principle that entrenched on the privileges of the body of which he had become a member. At the previous election, some returning officers had made charges of doubtful legality against the candidates. Of that nature was the item for their own services ; while the cost of stationery and printing incident to the election was legally charged against candidates. So was the remuneration of the poll clerk. Mr. Mackenzie reported these facts to the House, without indicating a specific remedy ; but he afterwards carried, on a vote of twenty-seven against five, a resolution that the chief clerk, with the approbation of the Speaker, should appoint the subordinate officers of the House, except the Sergeant-at-arms and any others appointed under the existing law.

He endeavored to bring the clerks of the Crown up to their duty ; and for this purpose carried an address calling the attention of the government to the fact that the census returns, required to be made annually under the Assessment Act, were frequently neglected by these functionaries, and making suggestions for preventing the omission.

During this session Mr. Mackenzie carried various other motions and addresses to the government. On nearly every vote he was sustained by immense ma-

juries. When certain powerful interests were interfered with, his success was not so marked; and on a few occasions he failed to obtain a majority. In those days, the Legislative Assembly counted a chaplain among its servants; and in accordance with the attempt, which had not yet been abandoned, to give the Church of England a position of ascendancy in Upper Canada, he was a member of that Church. On a vote of eighteen against fourteen, Mr. Mackenzie carried a resolution which struck at this exclusiveness, by declaring that, during the remainder of the session, the clergy of the town, generally, be invited to officiate, in turn, as chaplain, and their service be paid out of the contingent fund. But the bill repealing the clause of a statute then existing, which provided for the payment of a fixed salary to the chaplain, was rejected by the Legislative Council. When he asked the members to pay the postage of their own letters, if they exceeded a certain weight, he failed of success.

Upon most of the propositions he offered to the acceptance of the House, Mr. Mackenzie carried overwhelming majorities with him. But the Government was so fenced in that it could exist in the face of any amount of opposition. This session it was entirely independent of the House for the means of carrying on the government. No money grant was asked; and the House was officially informed that it would not be expected to trouble itself with the matter. The Crown revenue, which came into its hands, under an Imperial statute of 1774 (Geo. III. cap. 88), sufficed to defray the expenses of the government and of the ad-

ministration of justice.* And any bills passed by the House, which did not meet the sanction of the government, could be easily disposed of in the Legislative Council. The public debt, amounting to £112,166 13s. 4d.,† might have been supposed to require special attention, for there were £32,000 of overdue debentures unpaid.

With this responsibility, the Province was spoken of as being "overwhelmed with a great public debt;" and if its embarrassment is to be held as a criterion, it must be admitted that this debt was a greater burden than some \$60,000,000 is at present; though we now look at the amount of the debt in 1829 as utterly contemptible. Mr. Mackenzie's idea was, that a rigid course of economy should be pursued till the whole of the debt was paid off. In the course of this session, he brought before the House a series of thirty-one resolutions—a moderate number compared with the celebrated ninety-two of Lower Canada—on the state of the Province. He therein took a position far in

* This was generally the case—the government was financially independent of the House; and the money votes for public improvements were, under the vicious system then in vogue, just as liable to be initiated by members of the opposition as by the government. In Lower Canada, the Legislature contested the right of the government to appropriate the Crown revenue. The Crown revenue, in that Province, was not sufficient to defray the expense of the government; and when application was made to the House to supply the deficiency, the whole question of revenue and expenditure was brought into discussion. There had previously been complaints that the Post-office revenue was not under the control of the House; and Mr. Mackenzie was among the first to suggest that all the revenue raised in the Province ought to be appropriated by the local Legislature.

† The public debt had been contracted for the following purposes: Militia pensions, £11,666 13s. 4d.; Kettle Creek Harbor, £3,000; Burlington Canal, £12,500; Welland Canal, £75,000; public service for the year 1824, £10,000.

advance of the times. Contending for that right of local self-government, of which the constitution—substantially the same which united Canada now possesses—contained the guarantee, he asserted the right of the House to control the entire revenue arising within the Province; complained that money voted for the civil service had been applied to the pensioning of individuals in sums of from £1,000 to £500 a year; denounced the favors shown to a particular church, pensions—in a rather wholesale way it must be admitted,—monopolies, and *ex-officio* and criminal prosecutions, at the instance of the Crown, for political libels. The necessity of making the Canadian judges independent was asserted, in opposition to opinions expressed in high quarters in England. The unlimited power of sheriffs, holding office during pleasure, was declared to be dangerous to public liberty; especially as the office was often filled by persons of neither weight nor responsibility. The patronage exercised by the Crown or its agent, the Lieutenant Governor, in the Province, was asserted to be at variance with sound policy and good government. Though the importance of Canada to England, as a nursery for her seamen, and as a country consuming a larger quantity of British goods in proportion to the population, was insisted on, it was alleged that the discontents arising from the abuse of power were among the causes that led to the invasion of the Province in the war of 1812; the losses suffered from the war, by the most active friends of the British power, falling most heavily on the Niagara District, ought, it was contended, to be made good out of the territorial re-

venue of the Crown,* instead of being left unliquidated or allowed to fall on a poor province. The appointment of an accredited agent at the seat of the Imperial Government, was declared to be desirable. The resolutions constituted a budget of grievances, most of which have not only been redressed, but forgotten. The resolutions were not without blemishes; the chief of which consisted of the advocacy of the protective system; a fault very common in those times, when free trade had not become fashionable, and when the chief organs of English opinion asserted that sufficient favor was not shown to the productions of Canada. So little does even the popular branch of the Legislature appear to have been conscious of the justice and necessity of many of the principles asserted in several of these resolutions, that they were not pressed on the House for adoption. So far was Mr. Mackenzie in advance of his contemporaries.

The arrival in the Province of Sir John Colborne, in the capacity of Lieutenant Governor, had been hailed as the sure promise of a new era. Before the close of the session, during which an Executive Council, which found itself in a permanent minority in the popular branch of the Legislature, had been kept in office,† the illusion had vanished. Mr. Mackenzie, who had been elated by hopes which were destined

* The war losses compensation was a constant subject of discussion for some twenty years after the war was over. In many cases exorbitant claims were probably made; and this was one cause of the delay in settling them. Another difficulty was about the funds out of which they were to be paid.

† The following is a correct list of the names of those members who formed the Executive Council, the dates of the mandamuses, and the time

not to be realized, now uttered complaints where he had before been disposed to bestow praise.

He had gone into the Legislature with a desire to point out and, if possible, remedy what he believed to be great abuses in the Government. Of his speeches during the first session, he took the trouble to preserve but few. The first speech he publicly delivered, of which I find any record, was made before the "Constitutional Society of Upper Canada," in March, 1828. It gave a premonition of that power of swaying the masses, which he was afterwards to wield with so much effect.* The speech was made in oppo-

when each of them were sworn into office; one of whom had held office for a period of thirty-seven years:

NAMES.	DATES OF MANDAMUSES.	WHEN SWORN IN.
James Baby	5th May, 1794.	9th July, 1792.
John Strachan	25th July, 1817.	12th February, 1818.
William Campbell		26th October, 1825.
James B. Macaulay	5th May, 1825.	27th June, 1826.
Peter Robinson	5th July, 1827.	6th February, 1828.
George H. Markland	6th July, 1827.	6th February, 1828.

* This speech was made in opposition to a proposal to elect Francis Collins a member of the Society; and as it is the first of his I find on record, it may not be amiss to give an extract: "I have been accused, sir, of enmity and disaffection to this government; but the charge was as unjust as it was foolish. I have lent my feeble energies to the cause of truth; and would desire to see men at the helm of affairs who would call out and foster the latent genius of our people; who would patronize, protect, cherish, and multiply among us seminaries of useful learning, and become the distinguished friends of science, the arts, domestic manufactures, and great public improvements, whose ambition would be to add to the sum of human happiness, to enlighten the mind of the benighted peasant, and call even from the recesses of the forest and the wilderness of Canada to Senate and Assembly men whose patent of nobility would bear the impress of their Maker's image, and who would forget personal aggrandizement in the nobler and better purpose of promoting the public good. . . . Sir, I wish to live in peace with all men, before God and the world. I envy no man, nor have I any revenge to gratify. The tomb will soon, very soon, cover these limbs of mine; and the dust of death will bury in oblivion

sition to a proposal to elect Francis Collins a member of the Society.

the recollection of political triumphs and political reverses. . . . I have suffered years to elapse before I undertook even to defend myself against the sweeping denunciations of a being who delighted to trample upon truth and justice, and to hold me up to the people as a traitor to the true interests, happiness, and glory of my adopted country. I come at length to the facts on which my objection rests." Mr. Mackenzie seldom replied to personal abuse; and he refused to receive or read the productions of the "Kennel Presses," as he called the journals that pursued him with slander. Speaking of them towards the close of 1829, he said: "These vehicles continue, week after week, to vomit up calumny with the force and effect of so many forty shrew-power steam engines. It is of no use to try to shame them, they have no sense of shame." And a week or two later, he again noticed the "Kennel Presses," in these words: "We stated lately the titles of some six or seven provincial vehicles of news, which we had declined to receive, read, or exchange with. To that list has been since added, *the York Observer*. We positively do not want to have served up to us, almost daily, an endless farrago of nonsensical jargon and abuse. Those who admire the eloquence of a scolding woman will stay and hear her hold forth; those who do not, will maintain a proper distance from her bell-clapper. Although desirous to take rank among the latter class, we must concede the fact, that a female shrew or a male scold will, each of them, have their own way; there is no stopping them."

CHAPTER XI.

Visit to the United States—Admires Cameronian Preaching and Scottist Psalmody—Letter to the *National Gazette*—Comparisons between the State and Canada—A Charge of Disloyalty met—Mr. R. Baldwin elected to the Assembly, but does not take his Seat—Action for Libel, growing out of this Election, brought by Mr. Small against Mr. Mackenzie—The Legislative Session of 1830—The House Unanimous in demanding a Change of Administration—The Lieutenant Governor sends a Contemptuous Reply—Mackenzie proposes to send a Commissioner to England to lay the state of the Province before the Imperial Government—Is Chairman of the Committee on Banking—The Government hold one-fourth of the Shares in a Bank—The Chaplain Question—Revenue—Libel Laws—Disgraceful State of Prisons—Placemen in the Legislative Council—The Canal Era—Financial Jugglery—Effect of the Canals on the Price of Produce.

ENGLISHMEN travelling in the United States may be divided into two classes: enthusiastic admirers or critical objectors. British subjects of all ranks and conditions have been found in each class. Young and inexperienced persons, who are willing to accept appearance for reality, were most likely to become the admirers of American institutions. Nothing short of a fixed residence in the States, for some years, would cure these persons of their predilections. The ardent temperament of Mr. Mackenzie was well calculated to betray him into admiration with specious appearance, the real value of which could only be detected by years of observation.

In the spring of 1829 he visited New York, Washington, Philadelphia, and other places in the United States, with a disposition to view every thing he saw there in *couleur de rose*; adding brilliancy to the hues and tints by hideous contrasts. The alarming sound of a threatened dissolution of the Union even then fell upon his ears; he could detect in them nothing but the complaints of disappointed faction. He, however, learned something of the American character which he did not know before, and his mind was taken back to the Alien question. In one of his letters, written on the 14th May, he confessed: "I have never yet seen an American who would prefer another system of government to his own: local circumstances may cause him to emigrate, but an American is, in his heart, an American still;* and the more I see of this country the better I can account for the objections made by persons in office, in Canada, to the admis-

* It was evidently not Mr. Mackenzie's intention to say this in dispraise of the Americans, for he noticed with disapprobation the following versified and offensive expression of the same idea in *The Upper Canada Courier*:—

"I turn my lay, a feeble lay, I fear,
To those small men who've just departed here,
And meet for legislation once a-year.
But let me say, before my bark I launch,
I sing the lower, not the higher branch.
First—who's their head? A man of solid sense,
A *Mr. Bidwell*, saving of his pence.
By birth a Yankee—what can you expect
From Democrats with British honors decked?
Though they may crouch and bring to you, and pray,
Their natal feeling ne'er will wear away.
And e'en when cherished far above the rest,
Still rankling venom works within their breast.
Still they'll contend that happiness or bliss
Is not 'beneath a Government like this.'"

sion of its citizens to naturalization among us." A Scotsman "in feeling and principle," he looked upon the United States as an asylum for the oppressed of all countries, in spite of that slavery which was "the worst and darkest blot on its escutcheon."

Two things, mentioned in his letters from New York, serve to show that the influence of the principles which had been instilled into him from his earliest days had not been effaced in the rude collision with the outer world. "In the afternoon," he writes, "I went to hear Dr. McLeod, a steadfast Presbyterian of the old school; the genuine Cameronian, and a good preacher. There the old and solemn tunes of our fathers have not yet made way for ballad rhymes; there the single line of old Scottish Psalmody is given out by the preacher in truly national style; there the discourse is divided and subdivided into heads and observes in true covenanting fashion. I felt more at home in this church, the members of which are either Scotch, or generally from the north of Ireland, than I have often done while listening to the splendid eloquence of much more popular orators." The other instance is to be found in a reference to Tom Paine, of whom he says: "Had he had sense enough to remain contented with his ample share of fame as the author of 'The Rights of Man,' and 'Common Sense,' without interfering with revealed religion, he would at this day have probably stood next to Washington and Franklin, as a promoter of the glorious revolution which gave freedom to America."

When Mackenzie republished some of Paine's political works, political malice ascribed to him a participa-

tion in the skeptical opinions expressed by the author in some other works. On the injustice of an imputation made on such grounds, and upon such a pretext, there cannot be two opinions.

While on his visit to the United States, Mr. Mackenzie wrote a long letter, on the political condition of Canada, to the editor of the *National Gazette*. The authorship was not avowed, and though various conjectures were hazarded on the subject, it is difficult to see how it could have been a question at all. The letter bore the strongest internal evidence of its authorship, and was besides little more than an amplification of the thirty-one resolutions he had brought before the Legislature in the previous session. The principal points in the letter, that were not urged in the resolutions, were an elective Legislative Council, which, like so many other changes which found in him an early advocate, has since been effected, and an elective Governor, which nobody now asks for. He regarded the Legislative Council as serving in some sort as a shield to the Lieutenant Governor, by relieving the Executive of a responsibility which it must otherwise often have assumed. But as its members owed their appointment to the Crown, and most of them were office-holders of one grade or another, the instrument did not conceal the hand that had used it.

The contrasts made between the government of Canada, as then administered, and that of Washington, could hardly be otherwise than of dangerous tendency. An English statesman might make them with impunity; but if a Canadian followed his example, his motives would not fail to be impugned. So it was

with Mr. Mackenzie, who claimed to be, in English politics, neither more nor less than a Whig. These contrasts obtruded themselves by the propinquity of the two countries; and there is no reason to suppose that in Mr. Mackenzie's case, they, at this time, implied any disloyalty to England.*

* Attached to one of the letters which Mr. Mackenzie addressed to the Earl of Dalhousie, in May, 1827, is a manuscript note: "I was for England in 1820, 1824, 1827, 1833, 1834; but 1836-7 choked off my loyalty." As the general election of 1831 approached, the misrepresentations of the object of Mr. Mackenzie's mission to the United States continued to be repeated with increased virulence and rancor. He met them by the publication of the following letter:

DEPARTMENT OF STATE, }
WASHINGTON, July 28, 1830. }

"SIR:—Your letter of the first of this month to the Secretary, on the subject of an article which appeared some time ago in the columns of the *New York Courier and Enquirer*, and has since been re-published in other public journals, both of Canada and the United States, with additional innuendoes and particulars, was received on the 19th inst. at this office, during his absence; but I lost no time in communicating its contents to him. The object of the article or articles referred to, is, to indicate a visit to the United States and to its capital during the last summer, as connected with some revolutionary movement in the Canadas, in relation to which your agency was employed with the Federal Government; and you call upon the Secretary, in his official capacity, positively and decidedly to contradict it.

"I have, accordingly, just received a letter from Mr. Van Buren, the Secretary, dated at Albany, the 23d of this month, expressly authorizing me to deny all knowledge of or belief, on his part, in the designs imputed to you, as I now have the honor of doing, and to state, moreover, that he has not the smallest ground for believing that your visit had anything political for its object. He directs me also to add, that if the President were not likewise absent from the seat of Government, he is well persuaded he would readily concur in the declaration which I have thus had the honor of making in his behalf.

"I am, Sir, respectfully,

"Your obedient servant,

"DANIEL BRENT, *Chief Clerk*.

"WILLIAM L. MACKENZIE, Esq., *York, Upper Canada*."

The narrative would be incomplete if it were not added that the late Mr. George Gurnett, as publisher of the *Upper Canada Courier*, was active in cir-

During the parliamentary recess, a vacancy having occurred in the representation of York, by the appointment of Attorney General Robinson to the Chief Justiceship of the Court of King's Bench, the vacant seat was contested between Mr. Robert Baldwin, whose father was then a member of the House, and Mr. James E. Small. Mr. Mackenzie supported the former, who obtained ninety-two votes against fifty-one given to his opponent;* and after the election was over, the journalist felt himself entitled to counsel the successful candidate not to carry into the Legislature the habits of the advocate.

The day before the election commenced, Mr. Mackenzie printed charges against Mr. Small, that were afterwards made the subject of an action for libel. The matter complained of as libellous, consisted of statements made by Mr. James Hogg, of Milford Mills, and Mr. Daniel McDougal, affecting the reputation of Mr. Small, as Solicitor, in a case in which they were concerned, one as plaintiff, the other as defendant.

Taking the House of Assembly for our guide, it

culating these accusations. Of the latter, Mr. William Wallace, formerly a partner of Mr. Gurnett, wrote from Richmond, Virginia, September 1, 1830, that while living there, "he (Mr. Gurnett) renounced his allegiance to all potentates, and particularly to the King of Great Britain, as is recorded in our Court." Mr. Gurnett afterwards became Clerk of the Peace for the county of York, and Police Magistrate of Toronto. He died in the fall of last year.

* The House declared the election null and void upon a point of privilege. The Governor had assumed the responsibility of issuing the writ, contrary, it was said, to the privileges of the House, who had the right to adjudge the seat vacant, and order the speaker to issue a writ for a new election. The Governor yielded the point; causing the great seal to be affixed to the writ issued by the House. Mr. Baldwin was re-elected.

would be difficult to imagine a government administered in more direct defiance of the public will than that of Canada, in 1830. The Legislative session opened on the 8th of January; and in the address in reply to the speech of the Lieutenant Governor, the House was unanimous in demanding the dismissal of the Executive Council. "We feel unabated solicitude," said the representatives of the people, "about the administration of public justice, and entertain a settled conviction that the continuance about your Excellency of those advisers, who, from the unhappy policy they have pursued in the late administration, have long, deservedly, lost the confidence of the country, is highly inexpedient, and calculated seriously to weaken the expectations of the people from the impartial and disinterested justice of His Majesty's Government." The House was unanimous in desiring the removal of the advisers of the Lieutenant Governor; but a discussion arose upon the proper method of accomplishing that object. Mr. Fothergill suggested impeachment; but there were two objections to such a procedure. Impeachment must proceed upon a specific crime; but here it was a question of non-confidence. And before whom could the impeachment be tried? The Legislative Council might be asked to adjudicate upon the case; but, as Dr. Rolph remarked, that would be to ask the son to try the father. Mr. Mackenzie hit upon the true remedy. "I would," he said, "candidly inform His Majesty's ministers that they do wrong to encourage and support in authority an organized body of men in direct opposition to the wishes of the people of the country." If there was any hope of making

the wishes of the House prevail, it was by an appeal to England. The Lieutenant Governor had, in the previous session, been appealed to by an almost unanimous vote of the House, to remove his advisers; but he had felt himself at liberty to ignore the wishes of the people's representatives. On a direct vote of a want of confidence, the government had, in the previous session, been able to muster one vote out of thirty-eight; now their solitary supporter had deserted them. By the personal favor of the Governor, they were still retained in office. Mr. Mackenzie's proposition to send a commissioner or commissioners to England, to lay before the Imperial authorities the state of the colony, looked to an efficient remedy, and if acted upon, might have led to the result which the whole House desired to produce.

The Lieutenant Governor received the address of the House with a curtness that reveals a petulant sullenness bordering on insult: "I return you my thanks for your address," was all he condescended to say. That it might not appear invidious, he used the same formula in receiving the echo address of the Legislative Council.

No member of the House had the same knowledge of financial matters, revenue, banking, and currency, as Mr. Mackenzie. There were more finished scholars and more brilliant, though not more powerful, orators than he; but in his knowledge of the mysteries of accounts he was unrivalled. At the commencement of the session, he concluded an able speech on the currency, by moving for a committee of inquiry. Of this committee he was chairman; and in that capa-

city made an elaborate report* on banking and currency. One of the results of the inquiry was the passage of an Act (Geo. IV. cap. 6) introduced by Mr. Mackenzie, declaring that such British coins as were depreciated more than one twenty-fifth of their weight, should not be a legal tender. There was much room for amendment in the principles on which the banks were established. One fourth of the stock of the Bank of Upper Canada was held by the government,

*“The system of banking,” said the report, “in most general use in the United States, and which may with propriety be termed ‘the American Banking system,’ is carried on by Joint Stock Companies, in which the stockholders are authorized to issue notes to a certain extent beyond the amount of their capital; while their persons are privileged from paying the debts of the institution, in the event of a failure of its funds to meet its engagements.” On this system, which had found its way into Canada, Mr. Mackenzie was anxious that no more banks should be chartered; but in case the House resolved upon that course, he recommended the following precautions, as likely to afford some security to the bill-holders: “First, That a refusal to redeem their paper should amount to a dissolution of their charter. Second, That the dividends be made out of the actual *bona fide* profits only. Third, That stock should not be received in pledge for discounts. Fourth, That stockholders, resident within the district in which any bank is situated, should not vote by proxy. Fifth, That either branch of the Legislature should have the power to appoint proper persons to ascertain the solvency of the bank, or detect mismanagement, if they should see fit to institute an inquiry. Sixth, And it should be stipulated, that any act of the Legislature, prohibiting the circulation of bills under five dollars, shall not be considered an infringement of the charter. Seventh, The book or books of the company, in which the transfer of stock shall be registered, and the books containing the names of the stockholders, shall be open to the examiner of every stockholder in business hours, for thirty days previous to any election of directors. Eighth, Full, true, and particular statements should be periodically required, after a form to be determined on, and which will exhibit to the country the actual condition of the bank to be chartered.” To fourteen different questions put to them by Mr. Mackenzie, the officers of the Bank of Upper Canada refused to reply; but it does not appear that any of them were committed for contempt. Such a thing had never occurred in the Parliamentary history of England; but the bank officers here had the bad precedent of the Solicitor General, who was also their solicitor, for their guide.

and the stockholders were only responsible for the amount of their shares.

The Provincial government had, as we have seen, assumed the appointment of a chaplain to the Legislative Assembly. Mr. Mackenzie took up the question as one of privilege; and proposed to resolve that the House refuse to receive the Rev. Dr. Phillips as its chaplain; but that, instead, the ministers of the different denominations of York be requested to officiate during the session as chaplains, under such arrangements as may be made by the Speaker. But Mr. Mackenzie treated the question as something more than one of privilege; as a part of a system which gave a positive dominancy to a particular denomination. Resolutions embodying these views received the assent of the House.

He moved an address for detailed accounts of the different branches of the public revenue; introduced a bill—which passed unanimously at its final stage—providing that the publication of truth, unless with malicious intent, should not be a libel; and that the defendant in an action for libel should be entitled to plead truth in justification and produce his proofs. Another bill he introduced for the support of the poor, lame, blind, and persons deprived of their reason. The libel bill was rejected by the Legislative Council, in company with over forty others.

As chairman of a committee, Mr. Mackenzie brought to light some disgraceful facts bearing upon the conditions of the Provincial prisons. Into an underground cell of the York jail, three female lunatics were stowed; one of whom had become deranged by

the desertion of her husband. They were lodged in lock-up cribs, on straw ; two in one crib, and the third in another. The stench of their insalubrious dungeon, where they were confined in strait jackets, was complained of by the prisoners above. The bed clothes of some of the prisoners were not washed for six or eight months together. The atmosphere was in the last degree pestilential, and the food insufficient. An idle apprentice and a person charged with murder associated in the same room ; which necessarily became a school of vice for the less hardened.

As in the previous session of 1829, Mr. Mackenzie brought forward resolutions, directed against the practice of filling the Legislative Council with dependent place-men ; but they were not pressed on either occasion. If this point had been pressed by the House, which showed an inexplicable backwardness in dealing with it, there is reason to believe that it would have been conceded by the Imperial Government.*

* In a dispatch, addressed by Sir George Murray, then Colonial Secretary, to Sir James Kemp, Governor of Lower Canada, Sept. 29, 1829, and also "virtually" addressed to Sir John Colborne, as he was officially advised, the following passage on the subject of the Legislative and Executive Councils occurs :

"The constitution of the Legislative and Executive Councils is another subject which has undergone considerable discussion, but upon which His Majesty's Government must suspend their opinion until I shall have received some authentic information from your Excellency. You will, therefore, have the goodness to report to me, whether it would be expedient to make any alteration in the general constitution of those bodies, and especially how far it would be desirable to introduce a larger proportion of members not holding offices at the pleasure of the Crown ; and if it should be considered desirable, how far it may be practicable to find a sufficient number of persons of respectability of this description." Under these circumstances an immense power was placed in the hands of the Governors.

The canal era preceded that of railroads. In 1824, not a single effort of a practical nature had been made to improve the inland navigation of the Province. In 1830, the Rideau had been completed. A vessel of eighty-four tons burthen had, in the previous November, passed through the Welland. The Burlington and the Desjardins canals were far advanced towards completion. Mr. Mackenzie, who had been a warm advocate of internal improvements, obtained a committee, in the session of 1830, to inquire into the management and expenditure of the Welland Canal Company. The whole thing had so much the appearance of a financial juggle—the original estimates of £15,000 to £23,000 having been followed by an expenditure of over £273,000*—that curiosity must have been much excited to know by what legerdemain the different steps in the financial scheme had succeeded one another.† Mr. Mackenzie fully appreci-

* This canal has now cost £1,727,922 5s. 3d.

† The original estimates were only for a canal that would pass vessels of forty tons burthen. The company's capital was originally limited to £40,000. The government was empowered to take the work at the end of thirty years, on paying the company twenty-five per cent premium on the outlay. The estimates were made in 1824; and in April, 1828, an act was passed increasing the capital stock to £200,000. The Province subscribed for £25,000 of the stock, in 1825; and next year it loaned to the company £25,000, at interest, for three years. In 1827, this loan was converted into stocks, by a very close vote, twenty against eighteen. In 1826, the Legislature had been told that the work would be completed by the spring of 1827, at a cost of £20,000 less than the company's capital. When 1827 came, the usual story about unforeseen circumstances was told; and by 1830, it was admitted that the whole expenditure would be £300,000. Although Lower Canada had only a remote interest in the work, her Legislature came forward, in 1827, with a subscription of £25,000 to the stock. Next year, Mr. Merritt visited England, and obtained from the British Government a loan of £50,000, in security for which authority was afterwards given to assign the whole work. He also sold some

ated the effects of these internal improvements upon the price of produce. "Instead of 1s. 10½*d.* to 2s. 6*d.* a bushel for the superior wheat of this fertile Province," he said, in May 1830, "paid too often to the farmer in goods at double their value, we now find the miller and the merchant eagerly purchasing grain at 5s., and, in some places, even at 6s. currency per sixty pounds." As a commercial speculation the work was not destined to pay the stockholders; but the Province, which became the proprietor of the canal, has been amply repaid by the increased value given to its produce. A more striking example of this fact than that given by Mr. Mackenzie need not be desired. So well satisfied was he with the result of the internal improvements, so far made, that he declared, "I would cheerfully consent to involve the Province in debt, in conjunction with Lower Canada, in order to improve the St. Lawrence to the ocean." Lower Canada had taken the lead by making an appropriation for the survey of the St. Lawrence above Montreal.

shares elsewhere. In 1830, stockholders in New York had paid in £72,000; in Lower Canada, £12,825; and in Upper Canada only £2,462, exclusive of the Legislative subscription.

CHAPTER XII.

The Small Libel Suit—Mackenzie Pleads his own Cause and Succeeds—Din of the Electoral Battle—Responsible Government—Canada compared with other Countries—Rules for Elections—A subdued Black List—The Opposition to Mackenzie's Re-election—The Principles on which he Successfully Appealed to the People—The Politics of Bank Discounts—Success of the Official Party in the Election.

IN writing the biography of one who had many enemies in the public period of his life, while some of his cotemporaries are still living, it is impossible to avoid the revival of recollections that will give pain, or cause offence. But the duty of the impartial biographer is plain. While it should be his study not to inflict needless wounds upon the feelings of the living, the author is not at liberty to omit prominent facts which are essential to the elucidation of his subject. It is my aim, in dealing with events that may revive unpleasant recollections in the minds of some of the actors, to present the facts in the spirit of impartial history, free from rancor or animosity.

When Mr. James Edward Small appealed to the electors of York, in 1828, to select him instead of Mr. Mackenzie, a story affecting his professional reputation was circulated to his disadvantage. Every one loves to find some other cause for his want of success than the relative merits of himself and his opponent;

and Mr. Small alleged that he had lost the election by the circulation of a statement affecting his professional integrity. He stated, on the hustings, his intention to prosecute. Mr. Mackenzie was not the author or retailer of the alleged slander. Mr. George Ridout, Mr. Small's brother-in-law, canvassed Mr. James Hogg, of Milford Mills, for his vote. The miller replied that he could not vote for a man who had cheated or defrauded him out of forty or fifty dollars. Mr. Hogg was prosecuted for slander. He was not permitted to justify, or produce evidence in support of the accusation. The jury gave Mr. Small fifty pounds damages. The costs swelled the amount to £78 19s.

The story had been told by Hogg for Mr. Mackenzie's benefit—at least that was the effect, though it was probably not the intention—and he, in turn, repeated it, on the strength of the evidence in the Hogg trial, for the benefit of Mr. Baldwin. Mr. Mackenzie was prosecuted, too, but with a very different result. The alleged libel bore date November 25, 1829. The evidence in the former trial, which formed the staple of the second alleged libel, showed that one Daniel McDougal held a note against Hogg for £3 13s., "payable in liquor at the market price." The liquor had not been taken, and the question was whether the note could be collected. Mr. McDougal called to consult Mr. Small on the matter. The lawyer gave an opinion that the note, if sued in the Court of King's Bench, could be collected. Mr. McDougal left the note with Mr. Small, but alleged that he ordered him not to sue or make costs upon it, and that he made a

second visit to the lawyer to repeat these instructions. The note was sued, and the costs reached £12. Mr. McDougal further stated that he brought Mr. Small before the Court of Requests to compel him to pay over the amount of the verdict, but that defendant pleading his privilege as a barrister, McDougal had to pay the costs, and was kept out of his money still longer. Mr. Mackenzie, in publishing this statement, reflected upon Mr. Small for taking advantage of the monstrous maxim, "the greater the truth the greater the libel," arguing that the proper way for a man to wipe a stain from his reputation was "not by £50 verdicts, but by producing and admitting all the facts, but utterly disproving the charge made against him."* The alleged libel was an argument upon statements sworn to in a suit for slander, and so far from being charged with malignity, it contained such admissions as this: "I myself have had some dealings with Mr. Small, and although I looked carefully into his conduct towards me, I am happy to testify that I found him just and honorable in his dealings." It must be confessed that, if the evidence of Daniel McDougal could be relied upon, Mr. Small had taken advantage of a legal maxim that has since ceased to disgrace the laws of England.

* Judge Hagerman told the jury that if they believed that Hogg had used the words complained of, they must find a verdict for Small; that great scandal had been occasioned to the detriment of Small, by the unwarrantable conduct of Mr. Hogg; that a lawyer's reputation was of the utmost importance to him in his profession; that the jury must discard McDougal's evidence, showing the cause of Hogg's using these expressions, since it was inadmissible; that McDougal ought to have been stopped sooner; and he concluded by directing them to give a verdict for the plaintiff.

Such was the alleged libel, which came to trial on the 8th of April, 1830. A special jury had been struck, at the instance of Mr. Small. Messrs. Baldwin and Sullivan were solicitors for Mr. Mackenzie; and at one time it was his intention that they should act as his advocates, at the trial; but he finally resolved to be his own advocate. Mr. Draper appeared for Small. The trial lasted from half past nine in the morning to the same hour at night. Four hours out of the twelve were taken up by Mr. Mackenzie's address to the jury. During the whole time, the court-house was densely crowded. Mr. Justice Sherwood presided; and Mr. Mackenzie has commended his impartiality on the occasion. The Chief Justice and the Hon. Mr. Allan took seats beside the presiding judge. The jury,* who remained out all night, gave a verdict for the defendant; and they are said to have debated among themselves whether it was not competent for them to award damages to Mr. Mackenzie for the annoyance of a frivolous prosecution.

The verdict was set aside by the Court above, on the ground that the witnesses had been permitted to say too much in the way of justification. But Mr. Small, far from thinking it desirable to push this seeming advantage, was willing to let the matter rest where it was—the costs having been thrown on the defendant—but Mr. Mackenzie desired to fight the contest to its natural close. With that view, he offered a special plea in justification; but the judges,

* Their names, Messrs. Joseph Wixon, Pickering; Jas. Pearson, Whitechurch; Stilwell Wilson, John Chew, and Thos. Bell, of York; Wm. Cornell, Scarboro'; John Dalziel, Vaughan; Christian Reesor, Markham; Joseph Sylvester, Vaughan, and John Austin, of Toronto.

on application of Mr. Small, put off the new trial till the spring of 1831. A general election was to take place in the interim; and it was destined that the new trial was to be indefinitely postponed, Mr. Small remaining satisfied with his first defeat.

After the close of the session of 1830, the belief seems to have generally prevailed that the Executive government would dissolve a House which had been unanimous in asking the Lieutenant Governor to dismiss his advisers. The death of the King, George IV., settled all doubts that might have existed on this head. But before the intelligence of this event reached Upper Canada, the battle cry of party had been raised, in anticipation of a dissolution of the new House. In the month of July, Mr. Mackenzie addressed a series of very long letters to Sir John Colborne, Lieutenant Governor, apparently intended to influence the constituencies. Several columns of the first letter were devoted to a complaint founded on the accusations brought by the government press against the loyalty of the Legislative Assembly, and abuse of its members.* These attacks followed closely upon the pub-

* The *Upper Canada Courier*, published by the late Mr. Gurnett, described the House, as a "tyrant gang whose hatred is levelled at all loyal subjects; the Speaker, as "a treacherous plotter," whose face and form were "spiteful and bitter as the venomd asp;" whose heart was "the home of every evil passion," and whose "looks betray the mawkish hypocrite."

"———Mouthpiece of a tyrant gang, (the House of Assembly,)

Whose hatred is levelled at all loyal subjects.

Poor abject creature, of a rebel race,

I scorn thy brief and undeserved authority."

And again:

"A thing like him (the Speaker) will only breed contempt,

And cause our House to prove a scene of riot,

lication of a despatch from Sir George Murray, Colonial Secretary, to Sir James Kemp, Lieutenant Governor of Lower Canada, in which the Imperial Minister inculcated "the necessity of cultivating a spirit of conciliation towards the House of Assembly;" plainly showing the feelings of the British government on the subject. After collecting a long list of accusations against the dominant party in the Assembly, Mr. Mackenzie met them by quoting the remark of a "celebrated politician," that, "by this means, like the husband who uses his wife ill from suspicion, you may in time convert your suspicions into reality." But before he had completed the series, he met the charge of disloyalty brought against the Legislative Assembly and the party it more particularly represented, in direct terms. "The people of this Province," he said, "neither desire to break up their ancient connection with Great Britain, nor are they anxious to become members of the North American Confederation; all they want is a cheap, frugal, domestic government, to be exercised for their benefit and controlled by their own fixed land-marks; they seek a system by which to insure justice, protect property, establish

Uproar, and noise A theatre for spouting
Disgusting trash and scurvy billingsgate,
The scoff and scorn of all who witness it.

"Devoid of dignity, address, and manners,
He seems a thing unworthy to preside
O'er doating fools who loiter at camp meetings,
To hear old women prate in mawkish phrases.

"Out upon them (the House of Assembly); shouldst thou choose him
 (Mr. Bidwell) Speaker,
Thou'lt prove thyself a base and shameless faction,
Disgraceful both to government and people."

domestic tranquillity, and afford a reasonable prospect that civil and religious liberty will be perpetuated, and the safety and happiness of society effected." It was one of Mr. Mackenzie's complaints, that the members of the Executive government were not responsible to the people of Canada, through their representatives; and that there was no way of bringing them to account for their conduct. When the election contest approached more nearly he put forward responsible government as a principal of vital importance. As a needful reform, he placed it on a level with the necessity of purging the Legislative Council of the sworn creatures and dependents of the Executive, who comprised the great majority. Of Upper Canada politicians, we are entitled to place Mr. Mackenzie among the very earliest advocates of responsible government.* It is doubtless true that others afterwards made the attainment of this principle of administration more of a specialty than he did; for where abuses grew up with rank luxuriance, he could

*In September, 1830, he put forth the following programme, and afterwards frequently repeated its publication:

"To insure good government, with the aid of a faithful people, the following five things are essential:

"1. The entire control of the whole Provincial revenues are required to be vested in the Legislature—the territorial and hereditary revenues excepted.

"2. The independence of the judges; or their removal to take place, only upon a joint address of the two Houses, and their appointment from among men who have not embarked in the political business of the Province.

"3. A reform in the Legislative Council, which is now an assembly chiefly composed of persons wholly or partly dependent upon the Executive government for their support.

"4. An administration or Executive government responsible to the Province for its conduct.

"5. Equal rights to each religious denomination, and an exclusion of every sect from a participation in temporal power."

not help pausing to cut them down in detail. The independence of the judiciary, for which he persistently contended, has, like responsible government, long since been attained; and indeed, the somewhat fanciful idea of making judges only of persons who have never dabbled in the muddy waters of colonial politics is the only change which he put prominently forward, in 1830, that has not now been long in the enjoyment of Canadians.

His letters to Sir John Colborne are not free from remarks to which a general consent would not now be given. In drawing up an indictment, containing a hundred counts against the administration, the constitution was not always spared; but the system of administration, then pursued, would now find no supporters in this Province; and if we were obliged to believe that it was constitutional to sustain in power a ministry condemned by the unanimous voice of the people's representatives, the necessity for constitutional reform would be universally insisted on. If the British government and even the British constitution came in for a share of condemnation, it must be remembered that the oligarchical system, which reduced the popular branch of the Legislature to a nullity, was sustained by the Imperial Government; and that the Reform Bill of Lord John Russell had not yet been passed.

The letters to the Lieutenant Governor were immediately followed by "*An appeal to the people of Upper Canada from the judgments of British and Colonial Governments.*" This "Appeal" was one of the mildest productions Mr. Mackenzie ever wrote. Free from

personalities, it consisted entirely of an appeal to the reason and the better feelings of the people. But no description would convey so good an idea of it as a few extracts; and for that reason I resort to the latter method. Addressing the farmers of the country, he shows his love for Canada by comparing it with other countries:

“A kind Providence hath cast your lot in a highly favored land, where, blessed with luxuriant harvests and a healthful climate, you are enabled to look back without regret upon the opulent nations of Europe, where the unbounded wealth of one class, and the degrading poverty of another, afford melancholy proofs of the tyranny which prevails in their governments. Compare your situation with that of Russia, an empire embracing one half of the habitable globe, the population of which are slaves attached to the soil, and transferable to any purchaser; or with Germany, Italy, Portugal, and Spain, where human beings are born and die under the same degrading vassalage. Traverse the wide world and what will you find? In one place, a privation of liberty; in another, incapacity to make use of its possession; here, ignorance, vice, and political misrule; there, an immense number of your fellow men, forced from their peaceful homes and occupations ‘to fight battles in the issue of which they have no interest, to increase a domain in the possession of which they can have no share.’ Contrast their situation with yours, and let the peaceful plains, the fertile valleys of Canada, your homes, the homes of your wives and children, be still more dear to you. Agriculture, the most innocent, happy, and important

of all human pursuits, is your chief employment, your farms are your own; you have obtained a competence, seek therewith to be content.

“Contentment, rosy, dimpled maid,
Thou brightest daughter of the sky,
Why dost thou to the hut repair,
And from the gilded palace fly?
I’ve traced thee on the peasant’s cheek;
I’ve marked thee in the milkmaid’s smile;
I’ve heard thee loudly laugh and speak,
Amid the sons of noonday toil;
Yet in the circles of the great,
Where fortune’s gifts are all combined,
I’ve sought thee early, sought thee late,
And ne’er thy lovely form could find.
Since then from wealth and pomp you flee,
I ask but competence and thee!”

The plea of poverty—which is very liable to lead to corruption—as an excuse for not attending the poll, he met by saying:—“Poor, indeed, in soul or in substance must that farmer or mechanic be, who, being in health, cannot, in two or four years, spare time for one day’s journey to the hustings to express an opinion by his vote, concerning the persons chosen to watch over the public welfare.” Far from having any desire to change the monarchical for a republican form of government, he said:—“It is not a change in the form of government which will remove any difficulties or grievances under which you labor;” and so little did he flatter the people, that he told them “The grand panacea is self-reformation.” He went further: “Beware,” he said, “of electioneering sycophants! for if they flatter you, they will assuredly flatter power after you elect them.” Never were truer words spoken, or more necessary advice given. Of the further rules he gave

for the selection of representatives, the following are not worthless specimens:

“If you find a lawyer who has tried to fill his neighborhood with litigation—who is more famed for gaining causes than for scrupulous virtue in accepting their management, he is ‘a minister of municipal litigation, and the fomentor of village vexation,’—avoid him. But wherever a lawyer can be found among you, worthy of the high vocation whereto he has been called—learned, industrious, and faithful—less anxious for the fees of office than for the peace of society—always willing to embark in the most perilous duties of his profession, the protection of property, personal rights, domestic peace, and parental authority, entreat him to come forward as a candidate; elect him with acclamation; he will surely maintain your rights, and stand as a sentinel upon the watch-tower of Freedom, to warn you of approaching danger.* Men whose conduct, in their private dealings with their fellows, has been found to be regulated by covetous, unchristian, selfish principles, will be sure to make dishonest and unprincipled legislators; for how can he who takes daily advantage of the necessities or the follies of his brother, be a lover of mankind, benevolent, and kind? Mind not his boasted patriotism, nor his exclamations against existing abuses; for there is guile in his heart and deceit on his lips.”

Against the votes of members during the late Parliament, there was much less to be said, from Mr.

* There is reason to believe that, in giving this description, Mr. Mackenzie had Dr. Rolph in his mind; for he had previously spoken of him in nearly equivalent terms.

Mackenzie's point of view than against those of their immediate predecessors. The *Black List*—a running commentary upon prominent votes—was therefore meagre and comparatively feeble.

Mr. Mackenzie's re-election for York was opposed by nearly every newspaper in the country; and the few that did not oppose, remained silent. Some carried the virulence of personal abuse to an extent that caused him to complain of injustice; but he would neither condescend to reply nor to meet his assailants with their own weapons. He would not reply, "because," as he said, "he thinks that his conduct, during his political career of seven years, has sufficiently enabled the people to judge of the value which ought to be attached to such productions." The county of York returned two members; and of the four candidates on this occasion, two represented the opposition, and two the official party. On the liberal interest stood Mr. Mackenzie and Mr. Jesse Ketchum; opposed to them were Mr. Simon Washburn and Mr. Thorne. So far did Mr. Mackenzie carry his sense of fairness that he publicly announced that he would "abstain from using the press as a medium of injuring, in the public estimation," whoever might be opposed to him as candidates; an English-like love of honor and fair-play that might be copied to advantage in the present day. "He was," he said, "anxious to gain his election, more as a triumph of principle, than as a personal gratification. He will, therefore, neither keep open houses, bring voters to the hustings, nor in any way treat, entertain, or recompense any electors, either before, at, or after the polling. His return

(should he be elected) must be the deliberate result of public opinion alone, opposed, as it would be, to the powerful influence of the local government, the dominant priesthood, the provincial bank, and every human being who profits by the present irresponsible system."* On this ground he put the contest; and the result† justified his confident anticipations.

The new House‡ met on the 7th of January, 1831.

* Shortly before the election came on, Mr. Mackenzie had given "Reasons," occupying four newspaper columns, "why the farmers and mechanics should keep a sharp look-out upon the Bank [of Upper Canada] and its managers." These reasons were based upon the refusal of the officers of the Bank, in the previous session, to answer the inquiries on numerous points of a parliamentary committee; on the statement, in evidence of Mr. R. Baldwin, that notes had been discounted and refused discount from political reasons; on the palpable defects which then existed in the charter, defects which were such as even then no economist or good business man in Europe would have thought of defending. In order to exclude Mr. Mackenzie from the last annual meeting proxies had been refused.

† The result of the polling was: For Ketchum, 616; Mackenzie, 570; Washburn, 425; Thorne, 243.

‡ The following are members returned with the places they represented:
Glengary.—Alex. McMartin and *Hastings.*—Reuben White and Jas. Alexander Fraser. H. Samson.
Stormont.—Archd. McLean and P. *Lennox and Addington.*—Marshall S. Vankoughnet. Bidwell and Peter Perry.
Dundas.—John Cook and Peter *Northumberland.*—James Lyon and Shaver. Archibald McDonald.
Grenville.—Richard D. Fraser and *Durham.*—John Brown and George Edward Jessup. S. Boulton.
Leeds.—William Buell, jr. and Matt. *York, (Town).*—William Botsford M. Howard. Jarvis.
Brockville.—Henry Jones. *York, (County).*—Jesse Ketchum and William L. Mackenzie.
Carleton.—John Bower Lewis. *Simcoe.*—William B. Robinson.
Lanark.—William Morris. *Middlesex.*—Mahlon Burwell and Roswell Mount.
Frontenac.—Hugh O Thomson and *Norfolk.*—Duncan McCall and Wm. John Campbell. Willson.
Kingston, (Town).—Christopher A. Hagerman.

No previous Assembly had committed half as many follies as the one that now met for the first time was to perpetrate.

Oxford.—Chas. Ingersoll and Chas. Halton.—Wm. Chisholm and James Duncombe. Crooks.

Kent.—William Berezy.

Niagara, (Town).—Henry J. Boul-

Essex.—William Elliott and Jean ton.

B. Magon.

Lincoln.—Robt. Randal, John Clark,

Wentworth.—John Willson and Al- William Crooks, and Bartholomew C. Ian N. McNab. Beardsley.

Haldimand.—John Brant.

CHAPTER XIII.

Meeting of the New House—The Official Party elect Mr. McLean Speaker—The Chaplain and State Church Question—Cause of the Party Revolution—Power of the Purse—State of the Representation—Mackenzie obtains a Committee upon it—Officials and Dependants on the Executive in the House—Grants of Public Lands to Members of the House—Cheering in the Galleries of the Assembly—Permanent Civil List first Granted—Mackenzie inquires into the Public Expenditure, and becomes a Thorn in the Side of the Official Party—Bank Mysteries made Public—Unsuccessful Attempt to expel Mackenzie for distributing Copies of the Journals of the House at his own expense—Mr. McNab tries to pay off the Grudge of his previous Imprisonment—Scheme of Representative Reform—Undue Influence of the Executive on the Legislative Council—Mackenzie starts an Agitation for Responsible Government and other Reforms—Petitions to the Imperial Authorities—Journey to Quebec—Shipwrecked in the Ice of the St. Lawrence.

THE first trial of party strength, in the new House, showed that the majority had passed to the official side. It was then the habit of the Upper Canada Assembly, as it is now that of United Canada, to change the Speaker with every revolution of party. The re-election of Mr. Bidwell, by the new House, was out of the question; and Mr. Archibald McLean became his successor, on a vote of twenty-six against fourteen. He was the first native Canadian elected to the chair of the Upper Canada Assembly. His father had emigrated from Argyleshire, Scotland; and the son had, in previous local parliaments, allied himself with the Official or Family Compact party. Person-

ally, he was not obnoxious, even to the opposition ; and his pleasing address was much in his favor. But his election indicated a complete change in the politics of the House ; and the party now dominant in both branches of the Legislature, as well as in the government, was subject to no check whatever. The way in which it abused its power, will hereafter be seen.

Early in the session, Mr. Mackenzie brought forward a resolution re-affirming the right of the House to appoint its own chaplain, and denying that the Executive government had been entrusted with the power to prescribe the religious duties, exercises, or ceremonies of the House, or to incorporate with the tenets of any particular sect the institutions of the country. In Lower Canada, where the majority of the population, and of the Legislative Assembly, was Roman Catholic, the House had no chaplain. But this was not necessarily the result of the denominational complexion of the population ; for Upper Canada was the only British American Province where the government undertook to appoint a chaplain to the Legislative Assembly. Even in Nova Scotia, where the Church of England was fully established, the popular branch of the Legislature claimed and exercised the right of appointing its own chaplain. The legal establishment of the Church of England in Canada was contested ; and it was chiefly as a protest against the assumption that it occupied such a position, that Mr. Mackenzie brought up this question, session after session. If the Church of England was not securely established, as a State Church, it had made some not unsuccessful efforts at dominancy. It claimed a

seventh of all the granted lands in the Province. It had obtained control of the University of King's College, at York; and it had obtruded a chaplain on an unwilling House of Assembly. In the temper of the new House, no decision could be got upon the question raised by Mr. Mackenzie. It was superseded by a motion, brought forward by ex-Speaker Willson, "that the question be not now put." Mr. Mackenzie then moved that a request be presented to the ministers of the different denominations, in York, to say prayers in the House, during the session, under such arrangements as the Speaker might make; but a large majority of the members—about three-fourths—refused to entertain the question, and the subject was referred to a committee, consisting of Messrs. McNab, Willson, and Samson. In the course of the debate, Solicitor General Hagerman threatened the House with "confusion," and that "an end would be put to their proceedings," if they ventured to oppose the wishes of the Lieutenant Governor. Attorney General Boulton compared the assumption of the House, of the right to appoint its own chaplain, with the right of the assassin who shoots down a man in the street—the exercise of mere brute force. And the House accepted the argument, and bowed before the menace.

It was already evident that Mr. Mackenzie had lost in the new House the influence he had exercised in that which the Executive—unable to find in it a single friend in need—had caused to be dissolved. Instead of praying for a removal of the ministry, as on the previous occasion, the Address of the House was a

mere echo of the speech with which the Lieutenant Governor had opened the session.

It is impossible to note the change in the character of the House produced by the election of 1830, without inquiring to what possible causes so extraordinary a party revolution was attributable. The enigma seems to be not wholly incapable of solution. The opposition to the Executive, in the previous House, had gone far to abolish all party lines. Very few members, who served from 1828 to 1830, had any serious political sins to answer for, in respect to that period. The purse-strings were held by the Executive. Holding the crown revenues independent of the Legislature, it could wield the influence which money gives; and, in a young colony, poor and struggling, this was necessarily considerable. The state of the representation was, in some respects, worse than that in the unreformed House of Commons. The session was not very old when Mr. Mackenzie moved for a committee of inquiry on the subject. When he rose to address the House, a collector of customs sat at his elbow, and another of these officers was contesting the election of a member who held office under the Executive during pleasure; while the Speaker whom he addressed held the office of Clerk of the Crown in the district where he lived. In England, a postmaster could not vote for a candidate seeking a seat in the unreformed Parliament; half a dozen postmasters held seats in the Upper Canada Assembly. There were, besides, office-holders of almost every grade: a Sheriff, Inspectors of still and tavern licenses, County Registers, and Commissioners of Customs. If any

one is innocent enough to suppose that this crowd of officials could make independent representatives, a recollection of the fate of Mr. Fothergill will serve to undeceive him. Mr. Fothergill had been dismissed from the office of King's Printer, on account of the independent position he had taken in the House. Capt. Matthews, of the Royal Navy, had been temporarily deprived of his pension, through the complaints of spies, who made it a subject of serious complaint against him that, when he had indulged too freely in wine at dinner, he had thoughtlessly or imprudently called on the orchestra to give "Yankee Doodle," in the little theatre of York. Mr. Mackenzie, with his colleague for York and the member for Lanark, represented a larger number of people than fifteen other members. There was more than one member whose whole constituency did not number over twenty or thirty votes. The county of York, which had two representatives, contained more people than Hastings, Dundas, Haldimand, Niagara, and Brockville. A majority of the whole House represented less than a third of the population; and if property were taken into account as a basis of representation, the matter would be still worse. Members of this House and its predecessor had obtained grants of crown lands, over which the Executive and not the Legislature held control, to the extent of from five hundred to two thousand acres,* on simply paying the fees exacted by the officials. With great force Mr. Mackenzie urged these facts, for the most part discreditable, as a reason for

* These grants were probably legal. The objection was to the system which permitted of abuse.

inquiring into the state of the representation. On a vote of twenty-eight against eleven the House granted the committee; and after two attempts on the part of the officials and their friends to break the force of the conclusion arrived at, Mr. Mackenzie got a committee of his own nomination, consisting of Messrs. Shaver, Howard, Buell, Lyons, and himself.

Even when his speeches did not move the House, they sometimes caused the galleries to respond with involuntary cheers. One instance of his forcible way of putting things will show the secret power that brought these dangerous responses from beyond the bar. Mr. Burwell had proposed to grant a life pension to the widow of one of the leading public officers, when Mr. Mackenzie opposed the proposition in these terms:—

“He objected to the introduction of a pension list of this kind, because if it were admitted that the lady of one public functionary had a right to a pension, it would follow that others had the same right, and gentlemen holding lucrative situations would depend on the public and squander more profusely their ample incomes. A man came from Scotland with a most excellent character, expended all he had to bring himself, a wife, and large family to these shores; had Lord Bathurst's letter in his pocket deluding him with the hopes of a grant of land, found it a deception, and went back into the bush upon a reserve to combat ill health, poverty, and disappointment. The Lieutenant Governor and Council would do nothing for this poor man; his wife, separated from her friends, pined and died; her husband had a few hours before

come to inform him, with tears in his eyes, that she had been that very day confined. Was it to be borne that while respectable emigrants were thus made the sport of a faction in the colony as pitiless as death itself, that the rich, the wealthy, the opulent, they who had obtained and doubtless well deserved thousands of acres of public lands and thousands of pounds of public money, should now, at the eleventh hour, come forward and seek pensions out of the hard earnings of British emigrants?—and that where British settlers with empty pockets were told to buy land at its highest price and pay with interest for leave to live in a wilderness, ladies of fortune and high connection should receive pensions out of the public bounty? It might be fashionable in Britain, but was quite unfit for Canada.”

The utterance of these words was followed by clapping of hands and cheering in the galleries, which produced a motion ordering that strangers should be required to withdraw. The ebullition of feeling appeared to have been uncontrollable, and after a discussion on the subject, in secret session, the public was re-admitted.

During this occasion a permanent Civil List of £6,500 was granted. £8,000 had been asked from the House, by the Imperial Government, which, at this time, surrendered its interest in certain duties, estimated at £11,500 a year, levied under Imperial statute, and which had previously been applied to the support of the civil government. The Civil List granted in return for these revenues provided for the salaries of the Governor, the Judges of the Court of Queen's

Bench, the Attorney and the Solicitor General, five Executive Councillors, and the Clerk of the Executive Council.* The revenue now ceded had recently made the Executive independent, in money matters, of the House; and as there was no other means of making the advisers of the representative of the Crown responsible to the Legislature, the granting of a permanent Civil List was looked upon, by the Reform party, as another means of perpetuating that immunity from control, which the Executive enjoyed, and which was the source of so many evils. There was no reason to expect that the Legislature would long have remained satisfied to permit these revenues to be disposed of without its sanction; for, though they were raised under Imperial statute, they were paid by the Province, and were in their nature essentially local. The Legislative Assembly, if armed with the power of annually voting the salaries of the members of the government, might, Mr. Mackenzie and those who acted with him thought, have some control over them. If the government had been responsible to the Legislature, this ground of opposition to what received the name of the "Everlasting Salaries Bill," would, in all probability, not have been taken, because the object which the opposition sought to accomplish would have been more effectually obtained by other means. The vote upon the question was a strictly party vote, and it is very certain that, under the conditions of go-

* The salaries were: Lieutenant Governor, £2,000 sterling; Judges of the Court of King's Bench, altogether, £3,300 sterling; Attorney and Solicitor General, £500 sterling, each; Five Executive Councillors, £500 sterling, each; Clerk of the Executive Council, £200 sterling.

vernment which then obtained, no permanent Civil List would have been granted either by the preceding or the subsequent House of Assembly. Under other circumstances—in the presence of a responsible government—the Liberals would probably not have opposed the granting of a permanent Civil List; but under a system which deprived the Assembly of all control over the advisers of the Lieutenant Governor, they can hardly be blamed for seeking to enforce Executive responsibility by the only means that seemed to be in their power.

It had already become evident that, even in the present House, Mr. Mackenzie would frequently get his own way, and that he would give no end of trouble to the official party. He brought forward motions which the House, in spite of its adverse composition, did not venture to reject, and they were sometimes accepted without opposition. He had carried a motion of inquiry into the fees, salaries, pensions, and rewards paid out of that portion of the revenue which was not at the disposal of the Legislature, as well as a motion for a return of all sums, paid out of the same source, to religious denominations. He had made strong efforts to effect a reform in the very defective system of banking which then prevailed. The friends of bank mystery had been obliged to give way, and allow regular returns of the state of the Bank of Upper Canada to be made. Attorney General Boulton, who was solicitor for the bank, held out against the requirement of publicity as long as he could, but he had to give way. On this subject Mr. Mackenzie did not carry his motion, but he compelled those who

opposed him to yield much of what he contended for.

If a member, who gave the official party so much trouble could be got rid of, how smoothly things might be expected to glide along in the House, as at present constituted! Could a vote of expulsion not be carried? To this question an attempt was made to give a practical answer. Previous to the general election, Mr. Mackenzie had distributed, at his own expense, several copies of the journals of the House, unaccompanied by comment, and precisely in the shape in which they were printed by the House. The declared object of the distribution was to give the voters, in different places, the means of referring to the official record of the votes and proceedings of the House, in order that they might be able to trace every vote, motion, and resolution of their late representatives, and to ascertain when they were absent and when present; whether their votes were acceptable or not. It appears that it had been decided at a private party meeting, at which several of the leading officials are said to have been present, that this should be treated as a breach of privilege, and be made the ground of a motion to expel the member guilty of it. For this purpose, the aid of a committee of inquiry was obtained, consisting of Attorney General Boulton, Messrs. McNab, Willson, Samson, and Wm. Robinson. Mr. McNab was selected as the minister of vengeance; and it may be presumed that he performed his task *con amore*, since he had an old grudge to settle with the member, on whose motion he had, in a previous session, been sent to prison for refusing to

answer the inquiries of a committee of the House. Mr. McNab based his complaint chiefly upon the fact that the journals had been distributed without the appendix. If the appendix had gone too, he owned "that he should not so readily have made up his mind on the question of privilege." The idea he attempted to convey was, that the journals alone gave a partial view of the proceedings of the House; but this pretence was wholly groundless. All the votes and proceedings of the House are contained in the journals. The motion was in these words: "That it having appeared upon the report of the select committee, to whom was referred the resolution of this House, and the report of the Clerk on the subject of printing the journals, that William Lyon Mackenzie, Printer, of this town, who was employed to print the said journals, had abused the trust reposed in him by publishing portions of the said journals, and distributing the same for political purposes, among individuals not entitled to copies thereof; thereby committing a breach of the privileges of this House." The Solicitor General made no hesitation in denouncing the circulation of the journals as "altogether disgraceful, and a high breach of the privileges of the House." He deemed it monstrous to circulate them, "without the consent or approbation of the House," and for the shameful purpose of letting the constituencies know how their members had voted. The Attorney General said the question was whether, for this "bad purpose, any portion of the journals of the House could be published;" and he answered it by unhesitatingly declaring his "opinion, as a lawyer, that such a publication

was a breach of Parliamentary privileges, whether done with an evil intent, or for a praiseworthy purpose." He attempted to make the British constitution responsible for the folly his party were attempting to perpetrate. "He had been suffering much from indisposition all day; but he felt it to be his duty to stop in his place and vindicate those privileges which ought to be dear to every man who loved, as he did, the British constitution." The spirit of the dominant party of the day is fairly shown by this style of pleading. Technically speaking, there may be little doubt of the correctness of Mr. Boulton's Parliamentary law; but nobody knew better than he, that the rule which forbids any one to publish the proceedings of the House, without authority, was violated every day; and that its violation was looked upon, not as a crime to be punished, but a public benefit and a general convenience. Mr. Dalton had, in the previous session, published portions of the proceedings of the House in his journal;* and if Mr. Mackenzie was liable to be punished, so was he. Every newspaper publisher was equally guilty.

Mr. Mackenzie had a clear appreciation of the effect which such an ill-advised movement would produce on the public mind. "If," he said, "the object of this resolution is to do me injury, it is but another proof of the incapacity and folly of the advisers of this government, who could not have better displayed their weakness of intellect and unfitness for office, than by bringing me before the public as a guilty person, on an accusation, against which the whole country, from

* *The Patriot.*

one end to the other, will cry out, 'Shame!' Of what am I accused? Why, Mr. Speaker, I have committed the high crime and misdemeanor of distributing, before a general election, at my own private expense, one hundred and sixty-eight copies of the public official journals of this House, without note or comment, and after the Clerk had corrected the proofs, in order (as the circular letter I sent with them declares) that the freeholders in every district might have in their own hands the best possible means of judging of the fitness or unfitness of honorable members again to represent their feelings and interests; and in order that means might be at hand to refute the slanders of those who would desire to mislead the public by anonymous placards, handbills, and idle gossip, in favor of one candidate to the prejudice of another." "Were this motion to carry," he said in another part of his defence, "we should find that we had privileges contrary to precedent, contrary to usage; privileges, of which no popular legislative body, until now, ever heard or dreamed; privileges, which set common sense and human reason at defiance. If I have done wrong, every newspaper editor in London, in Lower Canada, and in this Province, is deserving of punishment."

Nothing could be plainer than that the charge on which it was sought to justify the motion for expulsion was a mere pretext. For if the publication of the proceedings of the House, and worse still, as was alleged, of a portion of those proceedings, was an offence which that body, in vindication of its privileges, was bound to punish, proceedings ought to have been taken against every newspaper publisher. It was not

the member but the publisher of the journals who was alleged to have offended in this instance; and why should the member be punished for what the publisher had done, while every other newspaper proprietor, who was obnoxious to the same charge, was to go scot free? These considerations must have flashed upon the House; and in spite of its subserviency to the administration, and in spite of the desire to get rid of Mr. Mackenzie's active opposition by removing his presence from the House, a majority, fearing the effect of the proceeding upon the constituencies, shrank from sustaining Mr. McNab's motion. The vote stood fifteen against twenty; the names of the Attorney General and the Solicitor General figuring in the minority.

Baffled for the time, but resolved not to forego their purpose of getting rid of a troublesome opponent, a new pretext was soon invented. It was pretended that Mr. Mackenzie, the journalist, had printed a libel upon the House. But for libel the law had provided severe remedies, and placed the accused at the great disadvantage of not being able to plead in justification that the alleged libel was true. To the law of the land, the accused journalist was amenable; and might have been put upon his trial, either civilly or criminally.* But this would not have answered the purpose of Mr. Mackenzie's assailants; which was to rid the House of his presence and his opposition.

* I do not, of course, intend to deny the constitutional right of the House to punish for libels upon itself. But the power is one that requires to be exercised with great caution; and assuredly it should not be abused by making it a pretext for the expulsion of a member, who is found troublesome to the dominant party.

Before the time came for the second motion for expulsion, the House had entered on another session; and in the interval Mr. Mackenzie was far from having done any thing to conciliate the dominant faction. On the 16th of March, 1831, the committee on the state of the representation, of which he was chairman, reported. It condemned the practice of crowding the House with placemen; showed that the Legislative Council had repeatedly thrown out bills for allowing the same indemnity to members for towns as was paid to those for country counties—ten shillings a day, without any allowance for travelling expenses—recommended the modification of that provision of the law which gave a representative to every town having one thousand inhabitants, so as to include a portion of the adjoining country sufficient to give the constituency four thousand inhabitants; an approach to the equalization of constituencies, in other cases, was recommended in detail. Some of the suggestions have since been carried into effect. The report is entirely free from that quackery which consists of the iteration of what is readily accepted as a principle, but which without some modification does not admit of practical application. It was shown that the Executive had exerted undue influence on placemen who held seats in the Legislative Council; and compelled them to change their tone and vote in direct opposition to their convictions previously expressed in their places. A few had had spirit enough to protest; but submission had been the rule.

The Legislative recess was of less than ordinary length; the Provincial Parliament, prorogued on the

16th of March, having been again convened on the 17th of November, 1831. But the period had been long enough for Mr. Mackenzie to arouse an agitation which shook Upper Canada throughout its whole extent. Nothing like it had ever before been witnessed in the Upper Province. In the middle of July, he issued, in temperate language, a call for public meetings, to appeal to the King and the Imperial Parliament against the abuses of power by the local authorities. He did not mistrust the justice or the good intentions of the Sovereign. On the contrary, he showed the people that there were substantial reasons for believing in the good intentions of the King towards the Province. "If," he said, in a public address, "you can agree upon general principles to be maintained by the agents you may appoint in London, I am well satisfied that his Majesty's government will exert its utmost powers to fulfil your just and reasonable requests; your King's noble efforts on behalf of your brethren in England, Ireland, and Scotland, are an earnest that you have in him a firm and powerful friend." In these public meetings, York led off; and was followed by responsive movements throughout the Province. Mr. Mackenzie was personally present at many of the meetings, and even in such places as Brockville and Cornwall he carried every thing as he wished. Each petition adopted by those meetings was an echo of the other; and many appear to have been exact copies of one another. To produce a certified copy of the proceedings of the York meeting was sure to obtain assent to what it had done. A demand for a responsible government found a place in these petitions

The King was asked "to cause the same constitutional principle which has called your present ministers to office to be fully recognized and uniformly acted upon in Upper Canada; so that we may see only those who possess the confidence of the people composing the Executive Council of your Majesty's representative." Representative reform—which then occupied so much attention in England—was demanded. The control of all the revenue raised in the Province was asked to be placed in the Legislative Assembly;* the disposal of the public lands to be regulated by law; the secularization of the Clergy Reserves; the establishment of municipal councils which should have the control of local assessments; the abolition of exclusive privileges conferred upon particular religious denominations; law reform; provision for impeaching public servants who betray their trust; the exclusion of judges and ministers of the gospel from the Executive Council and the Legislature; the abolition of the right of primogeniture: these items completed the list of those grievances, of which redress was asked. Some of the copies varied a little from the original formula; in substance the different petitions presented but little variation.

Of these petitions Mr. Mackenzie afterwards became the bearer to England. The aggregate number of signatures appended to them was over twenty-four

* In respect to Lower Canada this principle had already been conceded. Lord Howick had stated in the Imperial Parliament, on the 11th of April previous, that "the government of Canada would be asked to surrender to the Provincial Assembly, the whole of the disputed revenue; but at the same time he would ask of them a moderate provision for the salaries of the governor and judges;" a civil list, in fact, to be granted every seven years.

thousand, five hundred. In spite of counter petitions numerously signed, Mr. Mackenzie's mission, as we shall see, was far from being barren of results.

During the spring of 1831, Mr. Mackenzie made a journey to Quebec, to pay a visit to some of the leading politicians of Lower Canada. He took passage at Montreal, in the steamer Waterloo, for Quebec. While on her way down, the vessel was wrecked. early on the morning of the 13th April, opposite St. Nicholas, and the passengers had a narrow escape for their lives. The vessel went down in deep water. The accident arose from the supposition that the ice-bridge at Cap Rouge had given way, and left the channel clear. It was the general wish of the passengers that the vessel should proceed, and the captain acted upon it. Mr. Mackenzie wrote an account of the occurrence, dated — "Malhot's Hotel, Quebec, April 13, 1831.

"When off Dechambault, one of the company's pilots came on board and said he had certain information that the ice at Cap Rouge had gone down and left the channel clear. Towards night, Mr. Lyman, of the house of Hedge & Lyman, Montreal, expressed to me some doubts as to the danger of our situation, but I confess I had no fears whatever, but believed that by midnight, at least, we would be off the wharf here. About twenty miles above this city, however, we came near to the great body of ice with which the channel is choked up, and the master and pilot judged it prudent to turn about and anchor in what was considered a safe place several miles up the river. Late in the night we cast anchor in clear, smooth water;

the Lady having previously anchored not far above us. We neither saw nor dreamt of the bay of ice that afterwards bore down upon us with the ebb of the tide. The passengers and the crew numbered, perhaps, upwards of fifty persons, five or six being women, one with a child only nine weeks old. There were about fourteen in the upper cabin with me, and the wife of Mr. Collins, an Englishman, from Oxford, occupied the ladies' cabin below ours. By eleven the passengers were all in bed, except Mr. Lalanne, of Montreal, and myself. At midnight Mr. L—— also retired, and I sat above another hour reading a book that interested me. Mr. Lyman had only lain down with his clothes on, such were his just apprehensions. I took the candle about one in the morning, went round the vessel; found all well; no appearance of storm or danger; I then stripped, went to bed, and fell fast asleep. At two o'clock Mr. Lyman and other passengers awaked me, said we were in danger, that the ice had come down upon us and was driving us among the ice above Cap Rouge, where in all probability, we should be lost. The ice made a dreadful din, but I confess I apprehended nothing, so went asleep again, and was again awaked. We had dragged one anchor, and lost the other, and had drifted into the midst of the ice. The vessel had become unmanageable. The efforts of the crew to back her out were useless, the cables being in the ice. For three hours before the wreck several passengers had declared their conviction that we would all go to the bottom, but I lay still in my berth and listened to their arguments *pro* and *con* until half-past five. In a moment, as it were, a

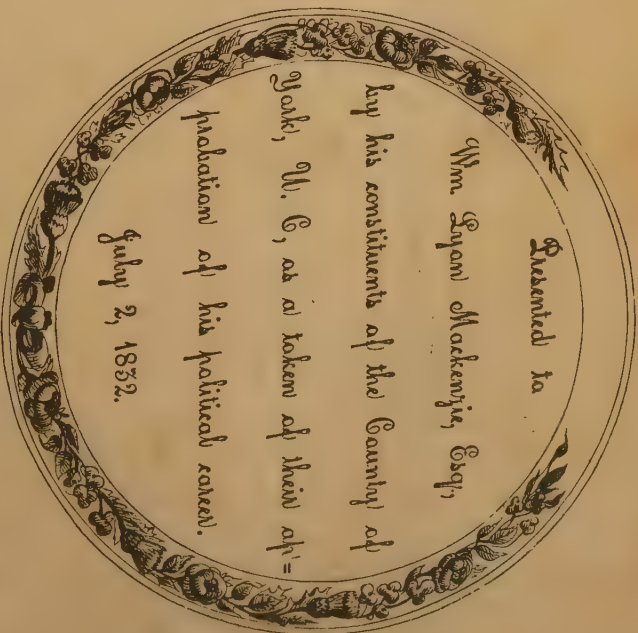
vast mass of ice came down upon her with a tremendous force; the engine instantly stopped, and in less than a minute she filled. I jumped up in my shirt, caught hold of my trowsers and overshoes, and was soon on a large cake of ice on which they had hauled the ship's boat and a bark canoe. The passengers had all previously gone upon the ice, and were stepping from island to island, or rather from hill to hill, and from valley to valley of ice, endeavoring to make the shore, which was about a mile distant. Capt. Perry, his mate, and some of his people remained with the boat, near to the wreck, which at that time had been left by all, it being supposed that she would suddenly be engulfed by reason of the very heavy cargo and the weight of her engine. After helping to haul the boat a little farther on the ice, I went close to the steamer, observed that the water ceased to make as at first, and returning to Capt. Perry took his advice as to the chance I had of going down if I returned for my clothes and baggage. He thought I might venture, and in a moment I was on board; got my watch and pocket-book from under my pillow; seized hold of my saddle-bags, valise, great coat, and other clothes, and without hat or boots made for the land. It was a difficult task, but I was last, and the track of the feet of others often guided me when I could see no one. The tide was then making, and the water in several places gushed up through the rent and rotten ice as if it would forever stop my progress. In one hole I was nearly up to the neck in water, and as my overshoes would not stay on my feet, I added them to my luggage, of which I was

heartily tired. At length I came up with Mr. Lyman and a poor woman who had almost given in and was weeping bitterly. Mr. L——'s leg had been broken during the Montreal Tailors' Riot of last summer, by a stone thrown by a tailor, and he found walking very difficult. I kept company with him and the woman until by the good providence of God and the wonderful bridge of ice he had that morning provided for us his humble creatures, we all got safe to land at the village of St. Nicholas, the property of Sir John Caldwell, about sixteen miles above this city. I was quite hoarse with cold, and very much fatigued, for no other passenger had ventured to stop for his baggage. Seeing, however, from the shore that the vessel was still above water, and correctly judging that she was supported by the ice that had got under her wings, the passengers offered rewards to the Canadian peasants to bring baggage ashore. With their efficient aid, the assistance of Mr. Sutton, a most hospitable and friendly man who resides in the seigniorial house at St. Nicholas; the advice of the parish priest, Mr. Dufresne, who took an active, lively interest on behalf of the wrecked; and of the captain, mate, and seamen, (all of whom I admired for their coolness and deliberation,) nearly all of the upper cabin furniture, and bedding, the most of the passengers' baggage, and the boat's books and papers were saved. Among the rest of the odds and ends my hat and boots made their appearance, the latter well soaked in water. * * *

“I must not omit to state that the sterling honesty of the Canadians in humble life never appeared to me in a fairer light than in their transactions of the morn-

ing of the shipwreck. Not one pin's value of property did the humblest of their peasants or peasants' boys attempt to secrete or claim. No! It was delightful to see the little fellows one by one come up to Mr. Sutton's with their loads and lay them down among the baggage, without even claiming praise for their exertions. Had some of our legislators, who made invidious comparisons between the Upper and Lower Canadas last winter in the Assembly been with me to see the benevolent creatures exert themselves on our behalf, they would certainly have felt ashamed of their censures."

There is one incident connected with the landing of the passengers, not mentioned in this letter, which Mr. Mackenzie often related. The poor woman whom he overtook, in company with Mr. Lyman, was unable to jump from one piece of ice to another, or was afraid to venture. Mr. Mackenzie threw himself across the breach, and she walked over upon his body!



The simile of a Gold Medal presented to Mr. William Lyon Mackenzie by his constituents, on his re-election, after his first expulsion from the Legislative Assembly of Upper Canada.

CHAPTER XIV.

First Expulsion of Mr. Mackenzie from the House for an alleged Libel and Breach of Privilege—His Defence—Partial Character of the Proceedings against him—Libels on the previous House complimented by the Lieutenant Governor—Mackenzie's Defence voted an Aggravation of his Offence—The House refuses to inquire whether any one else has Libelled them during the Session—Libellous Language of the Crown Officers—The Feeling excited by these Proceedings—Petitioners go in a body to the Government House—Fears of the Government shown by Military Preparations—The Expelled Member carried triumphantly through the Streets, amid the Acclamations of the Populace—Public Meeting resolve to present the Expelled Member with a Gold Medal in Approbation of his Political Career—His Re-election—His Opponent gets One Vote—Gold Medal and Chain Presented.

IN the last session, the attempted expulsion of Mr. Mackenzie had failed. The pretext adduced to excuse the proposal was so flimsy and untenable that a majority of the House shrank from committing themselves to it. A new crime had been invented, and a new pretext found. Before it was a breach of privilege, for distributing the journals of the House; now it was a libel, constituting a breach of privilege. The House met on the 17th November, 1831, and on the 6th December Mr. Mackenzie's first expulsion was proposed. The proceedings were initiated by a flourish about the privileges of Parliament; the intention

being to justify an outrage which it was proposed to perpetrate in their name. The ball was opened by Mr. John Wilson, a late Speaker of the House, supported by Mr. Burwell, against whose motion to create a pension, in the previous session, Mr. Mackenzie had roused an uncontrollable feeling in the galleries. This preliminary motion affirmed, "that the privileges of Parliament were established for the support and maintenance of the independent and fearless discharge of its high functions, and that it is to the uncompromising assertion and maintenance of these privileges in the earliest periods of English history, that we are chiefly indebted for the free institutions which have been transmitted to us by our ancestors." Mr. Bidwell, seconded by Mr. Perry, with a view of showing the animus of the proceedings, moved in amendment that so much of the journals as related to the previous attempt at expulsion be read; but in a House of forty members he was beaten by a majority of ten. Mr. Bidwell returned to the charge, proposing to amend the resolution so as to give credit to "a free press, in modern and enlightened times, notwithstanding the many different attempts to destroy its liberty," a share in the preservation of the free institutions transmitted to us by our ancestors. This amendment being rejected, on a vote of twenty-four against sixteen, another amendment, embodying an extract from the *Colonial Advocate* of the 24th November, 1831, and another of the 1st December, was moved. It had for sponsors Mr. Samson and Mr. Thomson, the latter of whom was proprietor of the *Kingston Herald*, a paper opposed in politics to Mr.

Mackenzie.* The first of these articles was a mere summary of the proceedings of the House on the sub-

* The amendment was as follows:—"That an article published in the newspaper called the *Colonial Advocate*, of date the 24th of November, 1831, in the following words:

"STATE OF THE COLONY.—The people of this Province will probably be able to form a tolerably fair estimate of the manner in which their petitions on public affairs are likely to be treated in the Representative branch of the Legislature, when they learn the manner in which the first of the series has been disposed of. The petition of the people of Vaughan, unanimously agreed upon at their town-meeting, and signed by the chairman, secretary, and from two to three hundred freeholders and other inhabitants, was the first presented to the House; and after it had been read and had lain two days on the table, Mr. Mackenzie, a representative of the people from whom it came, moved that it should be referred to a committee of five members, viz: Mr. Ketchum, the other member for the county in which the petition was voted, and Messrs Buell, Perry, and Shaver, with the mover, as a matter of course. Mr. Thomson, of Frontenac, the editor of the *Kingston Herald*, who had previously expressed great bitterness against the petitioners and their petition, in the public journals, immediately rose and objected to referring the petition to its friends, and allowing them to consider of and introduce any measures desired by the petitioners, and which they might consider expedient, to the notice of the Legislature. We told the people of York last July, that this would be the result of any application to the Assembly; and therefore the more earnestly requesting them to unite in addressing the King's Government, as by this means distinct propositions could be submitted to a new Assembly, called, as in England, on the Reform Bill. We now urge all those entrusted with the general petitions to the King and House of Assembly, to send them to York, by mail, on the earliest possible day, in order that the former be forwarded to London, and the latter submitted to the Assembly, now in session. We learn that Chief Justice Robinson's successor in the law business, Mr. Draper, either has gone off this week to London, or is now about to set off, to oppose the general petitions, and advocate the interests of the Executive faction here, with His Majesty's Government. They take the utmost pains to conceal their weakness in the estimation of the country, and one of their ablest assistants leaves his own private business and prospects, to watch the signs of the times at home. Mr. Thomson's amendment, already spoken of, was a resolution, 'that the petition of the people of Vaughan, with all other petitions relating to the same subject, be referred to a select committee of seven members, to be chosen at twelve o'clock to-morrow.' The Attorney General characterized the petitions as, 'the expression of a few people,' 'a few individuals,' 'mere casual meetings,' 'he happened to have seen some of these meetings, but a few respectable

ject of certain petitions, praying for a redress of grievances, and the second certainly did not exceed

farmers met together, did not at all understand the subject;’ and termed the committee ‘a one-sided committee.’ ‘The petitions he had never seen till that day—they had been got’ up by somebody or other.’ The Solicitor General wished the petitions to be referred to a committee of the whole House, and thus be got rid of at once, and not referred to the committee named by Mr. Mackenzie, who would call witnesses where none were wanted, and thus increase the expenses of the session. He asserted this, although there was nothing in the motion that gave the committee any power to call a single witness. Messrs. Burwell, Jarvis, and others opposed to the rights of the people, were, of course, in favor of Mr. Thomson’s amendment; the votes in favor of which were as follows:—Messrs. Shade, Henry J. and George Boulton, Burwell, Elliott, A. Fraser, R. D. Fraser, Sheriff Jarvis, Lewis, McNab, McMartin, Solicitor General, Magon, Mount, Samson, Thomson, Warren, and W. Willson.

“The members opposed to Mr. Thomson’s amendment, (introducing a species of vote, in which the constituents of members could not learn how they had acted,) and who would have entrusted the petitions to a committee of persons favorable to the prayer of the petitioners, were Messrs. Buell, Campbell, Cook, Duncombe, Howard, Ketchum, McCall, Mackenzie, Perry, Roblin, Shaver, and White. The Executive faction carried their measure by a majority of six.

“And also a certain article in the said paper, called the *Colonial Advocate*, of the date of 1st December, 1831, in the following words:

“EXCELLENT EXAMPLE OF LOWER CANADA.—The harmony which subsists between the Governor-in-Chief, the House of Assembly, and the Colonial Secretary, Lord Viscount Goderich, must be pleasing and gratifying to every true friend of representative government; for it is evidently the consequence of a just and honorable course of procedure in these high parties towards the people of Lower Canada. We are glad to perceive, by Lord Goderich’s despatch in answer to the Assembly’s petition sent home last spring by Mr. Viger, that all the Judges are to be dismissed both from the Executive and Legislative Council; that the revenues from the Jesuits’ Estates are to be applied by the Province to educate the Canadians; that the power of regulating trade is to be exercised in future with great attention to the interests of the colony; that provincial bills for giving corporate powers and making local regulations will be sanctioned; that the right of the colonists to regulate their internal affairs is fully admitted; that offices of trust and profit are to be more equally distributed in future; that officers who have lost the confidence of the country are to be dismissed, if the complaints made against them are proved; that all the proper influence of government is to be given to the satisfaction of the

the latitude of political criticism, at that time constantly taken by the English press. It would be easy to quote from leading London journals numerous exam-

colony, and that any colonial law increasing the responsibility and accountability of public officers will be sanctioned by England. In the Assembly we see noble and patriotic efforts made to increase the happiness of the people, enlighten their understandings, and watch diligently over their rights and privileges; and on the part of the Governor-in-Chief there does really appear to be a willingness to act with the House of Assembly, and faithfully to assist them in securing for the country the inestimable advantage of good laws and free institutions.

“The contrast between their Executive and ours, betwixt the materiel of our Assembly and theirs, and between the use they make of an invaluable constitution and our abuse of it, is anything but satisfactory to the friends of freedom and social order in Upper Canada. Our representative body has degenerated into a sycophantic office for registering the decrees of as mean and mercenary an Executive as ever was given as a punishment for the sins of any part of North America in the nineteenth century. We boast of our superior intelligence, of our love of liberty; but where are the fruits? Has not the subservience of our Legislature to a worthless Executive become a bye-word and a reproach throughout the Colonies? Are we not now, even during the present week, about to give to the municipal officers of the Government, as a banking monopoly, a power over the people, which, added to their already overgrown influence, must render their sway nearly as arbitrary and despotic as the iron rule of the Czar of Muscovy? Last winter, the majority of our Assembly, with our Speaker at their head, felt inclined to make contemptuous comparisons between the French inhabitants of a sister colony and the enlightened constituents who had returned them, the said majority. In our estimation, and judging of the tree by its fruits, the Lower Canadians are by far the most deserving population of the constitution they enjoy; for they show themselves aware of its value. While judging the people here by the representatives they return, it might be reasonably inferred that the constituents of the McLeans, Vankoughnets, Jarvises, Robinsons, Burwells, Willsons, Boultons, McNabs, McMartins, Frasers, Chisholms, Crookes, Elliotts, Browns, Joneses, Magons, Samsons, and Hagermans, had immigrated from Grand Tartary, Russia, or Algiers the week preceding the last general election; for, although in the turgid veins of their members, there may be British blood, there certainly is not the appearance of much British feeling” :—

“Are gross, scandalous, and malicious libels; intended and calculated to bring this House and the government of this Province into contempt, and to excite groundless suspicion and distrust in the minds of the inhabitants of this

ples of greater severity of denunciation. At the distance of less than a quarter of a century, we look back with amazement at the paltry passions and narrow judgment that could construe these articles into libels on the House, constituting a breach of privilege, for which nothing less than ignominious expulsion of the author would be a fitting or adequate punishment.

When the charge had been put into a tangible shape, the accused member was asked to avow or disavow the authorship of the alleged libels. He promptly accepted the responsibility of the articles, both as author and publisher. The Speaker, being appealed to, decided that Mr. Mackenzie had a right to be heard in his own defence. The latter then proceeded to address the House; but before he had concluded, an adjournment took place. * Next day, Mr. Bidwell moved for a committee to inquire whether any libels had been published on the House during the session. The motion was declared to be out of order. The Speaker also announced that he had given an erroneous decision, on the previous day, in giving the accused the right of self-defence. But Mr. Mackenzie was allowed to proceed. He denied the jurisdiction of the House, in prosecutions for libel; they could not, he argued, be a fit tribunal in a case where they would occupy the impossible position of complainant, judge, and jury. If they complained of libel, they could address the Lieutenant Governor to order the

Province, as to the proceedings and motives of their representatives; and is, therefore, a breach of the privileges of this House. And W. L. Mackenzie, having avowed the authorship of the said articles, be now called upon for his defence."

crown officers to institute legal proceedings.* Upon the charge brought against him, he was entitled to, and he demanded, a legal trial before a jury of his country.

So much did Mr. Mackenzie urge against the judicial fairness of the proceeding. It must be admitted, however, the strongest point he made was not by the use of arguments which tended to question the competency of the tribunal; but in demonstrating the partial and one-sided nature of the proceedings.† He was not the only member of the House who published a newspaper; and others had, in speaking of the proceedings of the Assembly, used much harsher language than he had. But the truth was, one party was permitted any latitude of language, in dealing with their opponents. This had been apparent in the prosecution of Collins, and the menaced proceedings against Mackenzie, while the newspaper organs of the official party were left undisturbed in their carnival of unmeasured abuse of opponents. It was the policy of tying the hands of your antagonist, and then setting your fiercest hounds upon him.

The Lieutenant Governor, whose nod would have been sufficient to quash these proceedings in a House swarming with placemen and dependents on the Executive, had received "with much pleasure," a petition from certain "gentlemen," residing in the county of Durham, in which the previous House was spoken of as "a band of factious demagogues, whose acts per-

* This was done in the case of Wilkes, whose expulsion was not pronounced until it was found that he had absconded.

† See Appendix B

ceptibly tend to disorganize society, to subvert legitimate authority, and to alienate men's minds from constitutional government." And in another part of the document thus graciously received, the Assembly was described as being composed of "unprincipled and designing men;" deluders "under the dark mantle of specious patriotism."

So far as related to the decision of the House, it was to no purpose that Mr. Mackenzie exposed the gross partiality of these discreditable proceedings. The majority had marked their victim, and no argument that could be used would induce them to forego the sacrifice.

At half past five o'clock on the evening of the 9th of December, Mr. Mackenzie, having closed his defence, retired from the House, leaving the majority to act unembarrassed by his presence. No vote was taken that night. Next day, Mr. Perry, seconded by Mr. Cook, moved that the order of the day on the question of privilege be discharged. He obtained but fifteen votes against twenty-seven. This was the third division on the proceedings, and it was in complete harmony with the two which had taken place before Mr. Mackenzie had made his defence. Attorney General Boulton, who seems to have feared that Mr. Mackenzie would renew his defence, moved to amend Mr. Samson's resolution by striking out the order for hearing the accused in his defence; and it was carried by the same party majority that had voted down Mr. Perry's amendment. On the same day, the House acting as accuser, judge, and jury, declared Mr. Mackenzie guilty of libel. The vote was precisely the same as

on the two previous divisions—twenty-seven against fifteen—a fact which shows, in the strongest light, how incapable was this partisan tribunal of deciding fairly upon a question of libel. By a party vote Mr. Mackenzie's guilt had been pronounced; by a party vote he was to be expelled.

On the 12th December—Sunday having intervened since the last proceedings on the subject—on motion of Mr. Samson, seconded by Mr. McNab, the House declared the defence of Mr. Mackenzie to be a gross aggravation of the charge brought against him, and that “he was guilty of a high breach of the privileges of this House.”* They refused to strike a committee to

* “MONDAY, December 12, 1831.

“Mr. Samson, seconded by Mr. McNab, moves, That it be resolved that William Lyon Mackenzie, Esq., a member of this House, having avowed himself the author of the articles published in the newspaper, called the *Colonial Advocate*, mentioned in the resolution of this House on Saturday last—which articles are grossly false, scandalous, and defamatory—and having been heard in his place in defence of the same, has by the whole tenor of such defence flagrantly aggravated the charge brought against him, and is therefore guilty of a high breach of the privileges of this House. [The word ‘therefore’ was afterwards struck out.]

“In amendment, Mr. Perry, seconded by Mr. Lyons, moves, That after the word Resolved, in the original, the whole be expunged, and the following words inserted: ‘That as this House has allowed many other publications to pass without punishment or censure, reflecting on the character and motives of its members for many years past, and as addresses to the head of the Provincial government for the time being have been published in the *Official Gazette*, containing such reflections with answers of His Excellency, the then Lieutenant Governor, expressing his thanks for such addresses, and as this House has, by the resolution adopted on Saturday last, asserted its privileges, and shown its determination hereafter to take notice of such offensive publications, it is not expedient to take any further notice of the said libels published in the *Colonial Advocate*.’”

“On which the House divided.

“YEAS—Messrs. Beardsley, Bidwe l, Buell, Campbell, Clark, Cook, Howard, Ketchum, Lyons, McCall, Perry, Randal, Roblin, and Shaver—14.

inquire whether any other libels upon them had been published since the commencement of the session.

"NAYS—Messrs. Attorney General, Berczy, Burwell, Boulton, Brown, Duncombe, Elliott, Fraser A., Fraser R., Ingersoll, Jones, Lewis, McNab, McMartin, Maçon, Morris, Mount, Robinson, Samson, Shade, Solicitor General, Thomson, Vankoughnet, Warren, Werden, and Wilson W.—26.

Then the question was taken on that resolution, whether Mr. Mackenzie's defence was an additional offence; and the twenty-six members who had voted against Messrs. Perry and Lyons' amendment, as above stated, voted that it was. The fourteen who had voted for Messrs. P. & L.'s amendment voted that it was not. Question carried—found guilty of the defence by a majority of twelve.

"Mr. Samson, seconded by Mr. Asa Werden, moved that it be resolved, that William Lyon Mackenzie, Esq., be expelled this House.

"In amendment, Mr. Perry, seconded by Mr. Lyons, moves, that after the word 'moves,' in the original, the whole be expunged, and the following inserted: 'That this House having fully asserted its privileges by resolving some particular remarks contained in the *Colonial Advocate* of the 24th of November and of the 1st of December, reflecting on the proceedings of this Assembly, and some of its members, to be a libel, and a high breach of the privileges of this House, it is expedient to appoint a Committee of Privilege to inquire and report to this House what other, if any, libels have been published against the proceedings of this House, or any of its members, since the commencement of this present session, and that Messrs. Attorney General, Berczy, Duncombe, Beardsley, and Ketchum do compose said committee.'

"On which the House divided.

"YEAS—Beardsley, Bidwell, Buell, Campbell, Clark, Cook, Howard, Ketchum, Lyons, McCall, Perry, Randal, Roblin, Shaver—14.

"NAYS—Attorney General, Berczy, Boulton, Brown, Burwell, Duncombe, Elliott, Fraser A., Fraser R., Ingersoll, Jones, Lewis, McMartin, McNab, Maçon, Morris, Mount, Robinson, Samson, Shade, Solicitor General, Thomson, Vankoughnet, Werden—24.

"The amendment was lost by a majority of ten.

"In amendment to Mr. Samson's motion for the expulsion of W. L. Mackenzie, Esq., Mr. Duncombe moves, that after the word 'moves,' in the original motion, the whole be expunged, and the following be inserted, 'Resolved, That William Lyon Mackenzie, Esq., be called to the bar of this House, and that he be reprimanded by the Speaker. Yeas, 7. Nays, 31.

"On the original question the House divided, and the yeas and nays were as follows:—

"FOR EXPELLING MR. MACKENZIE.—Messrs. Attorney General, Berczy, Boulton, Brown, Burwell, Elliott, Fraser A., Fraser R., Ingersoll, Jones,

The majority had no idea of exercising their tyranny in an impartial manner. Their object was to sacrifice their opponents; not to deal out the same measure of punishment to their friends. Among those who would have been found guilty, if the inquiry had been pushed, were some of Mr. Mackenzie's accusers and judges. The vote for expulsion stood twenty-four against fifteen, and there were four absent members belonging to the official party, all of whom would, if present, have borne true allegiance on this occasion.

Attorney General Boulton, acting as prosecuting counsel on behalf of the majority, described the accused as a "reptile;" and Solicitor General Hagerman varied the description to "a spaniel dog." His accusers and judges affected to regard his censure as equivalent to praise; while taking the most extraordinary pains to prove by their acts that they believed precisely the contrary.

The Imperial Parliament has, times innumerable, punished individuals for libels upon either House. A libel upon an individual member has always been treated as a libel upon the whole body to which he belonged. Admitting the force of English precedent, Mr. Mackenzie, if guilty of libel upon the House, was liable to punishment. But the articles complained of as libellous, in his case, can hardly be said to have

Lewis, McMartin, McNab, Maçon, Morris, Mount, Robinson, Samson, Shade, Solicitor General, Thomson, Vankoughnet, Warren, Werden—24.

"AGAINST THE EXPULSION.—Messrs. Beardsley, Bidwell, Buell, Campbell, Clark, Cook, Duncombe, Howard, Ketchum, Lyons, McCall, Perry, Randal, Roblin, Shaver—15."

The *Courier*, an organ of the official party, announced that Messrs. Wilson, Cook, Chisholm, and Jarvis, who were absent, would, if present, have voted for the expulsion.

exceeded the legitimate bounds of discussion; and they were not nearly so bad as many others which the House thought it proper to overlook; and of which, indeed, some of the majority concerned in his condemnation had been guilty. It is this gross partiality, this want of even-handed justice, which renders the proceedings against him so odious. Some of the libels which, in his defence, he showed had been levelled at particular members of the House, through the press, against other members, reflected upon a previous Parliament; but if English precedent be worth any thing, no right is clearer than that of one House to punish for libels upon a previous House. If the Assembly could punish for libel at all, it could punish for libels upon a previous Assembly. The punishment in Mr. Mackenzie's case, was altogether unusual. Deprivation of his seat was wholly unjustifiable.

The feeling excited in the unbiassed reader's own mind, as he goes over this recital, will be no safe indication of the degree of public indignation aroused by this atrocious mockery of justice. During the week of the sham trial, petitions to the Lieutenant Governor were numerous signed, praying him to dismiss a House tainted with the worst vices of judicial partiality. For the result had been foreseen by the preliminary divisions. On the day of the expulsion, a deputation from the petitioners waited upon the Governor's private secretary, and informed him that next day, at two o'clock, a number of the petitioners would go to Government House in a body, to receive his Excellency's reply. At the appointed hour, nine

hundred and thirty persons proceeded to fulfil their mission. They were received in the audience chamber; and the petition having been presented, they were dismissed with the studiously curt reply: "Gentlemen, I have received the petition of the inhabitants."

But the precautions taken betrayed the fears of the Government. "The Government House," says Mr. Mackenzie, in a fragment of manuscript relating to the event, "was protected with cannon, loaded, served, and ready to be fired on the people; the regiment in garrison was supplied with a double allowance of ball cartridges, and a telegraph placed on the viceroyal residence to command the services of the soldiers if necessary." There were even then some who urged an appeal to force; and the strange supposition seems to have been entertained that the Scotch soldiers would not fire upon them.* Mackenzie checked the impetuosity of the more ardent spirits, who advised violent measures. He had strong confidence in the disposition of the new Reform ministry in England, to do justice to the Province; and he inculcated the necessity of patience.

What his enemies intended to make the day of his humiliation and ruin, proved the day of his triumph. The violence exercised toward him by the dominant faction won for him the sympathies of the people. After the return of the petitioners from the Government House, they proceeded to the residence of Mr. Mackenzie, in Richmond street, largely reinforced. The man rejected by the Assembly, as a libeller, was

* I find that even now some of the active men of those times are still of this opinion; and speak in a tone of the greatest confidence.

carried through the streets amidst the acclamations of the populace, who took this emphatic way of testifying their approbation of his conduct, and of their determination to uphold the rights of a free press, which they felt had been outraged in his person. Among other places, the procession stopped at the Parliament House and cheered. They were cheers of triumph and defiance; telling how quickly the decision of the Assembly had been reversed by that public opinion, to which all elective bodies are ultimately accountable. At the office of the *Guardian* newspaper, then edited by the Rev. Egerton Ryerson, who had warmly espoused the cause of Mr. Mackenzie, the procession halted to give three cheers. From a window of the Sun Hotel, Mr. Mackenzie addressed the people; and cheers were given for the "Sailor King," and for Earl Grey and the Reform ministry. When Mr. Mackenzie had retired, the meeting was reorganized, and resolutions were passed, sustaining the course he had taken as a politician and a journalist; complaining of the reply of the Lieutenant Governor to the petitioners as unsatisfactory and insulting; asserting the propriety of petitioning the Sovereign to send to the Province, in future, civil instead of military Governors; and pledging the meeting, as a mark of their approbation of his conduct, to present Mr. Mackenzie with "a gold medal accompanied by an appropriate inscription and address."

At the same sitting at which the expulsion of Mr. Mackenzie had been decreed, the House had ordered the issue of a new writ for the election of a member in his place. The election was held at the Red Lion

Inn, Yonge street, on the 2nd of January. By what accident it is not necessary to determine, the election took place on the same day on which the town meetings were held throughout the county ; but in spite of this coincidence over two thousand persons were present. There was a show of opposition made to the re-election of Mr. Mackenzie ; but any thing so pitiful had seldom been witnessed. Mr. Street was nominated by Mr. Edward Thomson, and supported by the influence of Mr. Washburn, a candidate at the previous election. Forty sleighs had come into town in the morning to escort Mr. Mackenzie to the polling place. An hour and a half after the poll opened, Mr. Street, having received only one vote, against one hundred and nineteen cast for Mr. Mackenzie, abandoned the hopeless contest.

After the close of the poll, came the presentation of the gold medal. It cost \$250, and was accounted "a superb piece of workmanship." The medal and chain weighed one hundred and eighty-two dwts., or over nine ounces. On one side were the rose, the thistle, and the shamrock, encircled by the words, "His Majesty King William IV., the people's friend." On the reverse was the inscription : "Presented to William L. Mackenzie, Esq., by his constituents of the county of York, U. C., as a token of their approbation of his political career, January 2, 1832." The massive cable chain, attached to the medal, contained forty links of about one inch each in length.

CHAPTER XV.

Triumphal Entry into York—A Body of Electors force through the outer door of the Legislative Building—Commotion in the Galleries, on a motion for Re-expulsion being made—Solicitor General Hagerman prevails upon the House to declare a Disability unknown to the Law—One hour for the Accused to make his Defence—The Abuse of Privilege—Specimen of a Solicitor General's powers of Vituperation—Mackenzie's Defence cut short by the Speaker and the House—The Legislative Council call on the House to afford it Reparation for an alleged Libel—Impassioned Appeal to the Electors of York—Re-election after the Second Expulsion—Proposed Address for Dissolution—Bank Bills carried in Mackenzie's absence.

THE return to York was a triumphal procession. An immense sleigh, belonging to Mr. Montgomery, constructed with an upper story, carried, besides the members elect, over twenty others, with a couple of Scottish pipers. Over fifty sleighs joined the procession, which numbered over a thousand persons. A small printing press, emblematic of the instrument of victory, kept in order by the warmth of a furnace, was throwing off impressions as the monster sleigh moved along. Among the numerous flags that surmounted the sleigh carrying the re-elected member, one bore the device, "The Liberty of the Press;" another, "Mackenzie and the People." As Government House and the Parliament Building were passed, the deafening cheers of the throng announced the reversal of the decision of the House of Assem-

bly, by the freeholders of the county of York. Several soldiers of the 79th regiment went to the election, and rode back on the sleighs. They appear to have gone for the purpose of enjoying the excitement; and as their presence was contrary to law, the government papers strongly censured the commanding officer for permitting them to attend.

When Mr. Mackenzie returned to the House, with the unanimous approbation of his constituents, the question of re-expulsion was immediately brought up.*

* "HOUSE OF ASSEMBLY, Tuesday, January 3rd, 1832.

"On the Speaker announcing to the House the return of WILLIAM LYON MACKENZIE, Esquire, a member for the county of York—

"Mr. Vankoughnet, seconded by Mr. McNab, moved "That it be resolved, that the entries on the Journals of the 12th December last, relating to the expulsion of William Lyon Mackenzie, Esq., be now read.

Mr. Vankoughnet also read to the House the two following resolutions, which he declared to contain the object he had in view by moving the above resolve:

"Mr. Vankoughnet, seconded by Mr. McNab, moves that William Lyon Mackenzie, Esq., returned a member to represent the county of York in Provincial Parliament, having been expelled this House during this present session for the publication of certain gross, scandalous, and malicious libels, intended and calculated to bring this House and the Government of the Province into contempt, and excite groundless suspicion and distrust in the minds of the inhabitants of the Province, as to the proceedings and motives of their Representatives; and having made no reparation or atonement for his said offence, but on the contrary, in the interval between his said expulsion and subsequent re-election, having, in a certain newspaper called the *Colonial Advocate*, of which he, the said William Lyon Mackenzie, has avowed himself the proprietor, and responsible for the matter therein published, endeavored to justify and maintain the said gross, scandalous, and malicious libels, in high contempt of this House and its privileges; he, the said William Lyon Mackenzie, is unfit and unworthy to be a member of this House, and that his seat therein be therefore declared vacant.

"Mr. Vankoughnet, seconded by Mr. McNab, moves that it be resolved, That the Speaker of this House do issue his Warrant to the Clerk of the Crown in Chancery, for a new writ for the election of a member to serve in the present Parliament as Representative of the county of York, in the stead of the

While he stood at the bar of the House, waiting to be sworn in, Messrs. Vankoughnet and McNab raised the question, but the majority of the House seemed disinclined to incur the odium of a second expulsion; an amendment to proceed to the order of the day being carried by a vote of twenty-four against twenty. The motion was met by hisses below the bar, which were only suppressed by a threat to clear the House of strangers. The crowd of voters who had accompanied their re-elected representative to York, pushed their way into the House. An attempt was made to prevent their entering the lobby; but they forced through the outer door and got in.

The movers in the business had not put the case very skilfully. They had complained of alleged libels, as calculated to bring the government as well as the House into contempt; as if the House, in addition to being the guardian of its own privileges, had also been a constitutional screen for the protection of the government from censure. No new libel was charged;

said William Lyon Mackenzie, who has been declared unfit and unworthy to be a member of this House.'

"In amendment to Messrs. Vankoughnet and McNab's first resolution, Mr. Perry moved, in substance, that the House should proceed to the other ordinary business of the day, and drop all further proceedings in the libel case.

"In favor of dropping the proceedings, and against Mr. Vankoughnet's resolutions, voted Messrs. Attorney General, Beardsley, Bidwell, Buell, Campbell, Clark, Cook, Duncombe, Howard, Ingersoll, Ketchum, Lyons, McCall, McDonald, A., McDonald, D., Morris, Norton, Perry, Randal, Roblin, Samson, Shaver, Willson, W., and Warren—24.

For proceeding with Mr. Vankoughnet's resolutions for re-expelling Mr. Mackenzie, or rather of preventing him from taking his seat, and ordering a new election, (he having declared that step to be the object of his first resolve,) voted Messrs. Berczy, G. Boulton, Brown, Burwell, Crooks, Elliott, Fraser, A., Jarvis, Jones, McMartin, McNab, Maçon, Mount, Robinson, Shade, Solicitor General, Thomson, Chisholm, Vankoughnet, and Werden—20.

and the only offence that concerned the House consisted of an attempt to justify what the majority had previously voted a libel and a breach of privilege. The question raised was rather one of disability than of any new offence. It was probably owing to the fact that the majority saw this ground to be untenable that they refused to sanction the motion. The House had an undoubted right to expel any member for adequate cause; but it had no right to create a disability unknown to the law.

Solicitor General Hagerman, who appears to have known more of Parliamentary law than either Mr. Vankoughnet or Mr. McNab, felt that it was necessary, in bringing up the question of the re-expulsion, to go upon the ground of a new libel upon the House. He therefore moved, January 6th, a resolution declaring certain matter which had appeared in the *Colonial Advocate* of the previous day,* and of which Mr.

* The following are the only passages that reflect upon the House:—

“I have charged the present House of Assembly with sycophancy, in my capacity of a public journalist; I here before you and in the face of the world reiterate that charge, as applied to the majority of its members.

“They have passed, at the request of the local Executive, and contrary to British Constitutional principle, the everlasting salary bill; refusing at the same time to limit its operation to the present reign; refusing to provide for the independence of the judges on the Executive, while they secured to them for ever the most extravagant incomes; refusing also to inquire into the wasteful and dangerous system of applying the greater part of the revenue by a power unknown to the constitution; refusing to exclude the judges from seats in the Legislative and Executive Council; refusing to exclude bishops, archdeacons, and gospel preachers from seats in the Executive Council; and refusing to curtail the extravagance of the Council clerk, and the unjust charges of the Crown officers, before these officers had voted themselves and their successors, and the said clerk and his successors, incomes out of the taxes for ever.

“They have imitated the Legislative Council in squandering your revenues

Mackenzie admitted himself to be the author, to be a false, scandalous, and malicious libel upon the House

under the head of contingencies ; they double and treble the incomes of some of their servants, grant the most extraordinary demands for services, carelessly examine accounts, and openly vote down, session after session, ordinary motions of inquiry into the items of expense which compose the thousands of pounds demanded in a lump from time to time as contingencies by the Legislative Council. Adding together the probable incidental charges of the two Houses, from March last until March next, we shall have about £9,000. And as the whole expense of their sittings, £25,000. The Legislature of Vermont costs annually about half as many dollars, including the salary of Governor, judges, and all other charges ; yet the population of Vermont exceeds ours.

“They allowed the St. Lawrence to remain unimproved, although its being made navigable would have benefitted everybody ; and neglected further to encourage education, although the people cried out for it ; they put a negative in their first session upon the bill for distribution of intestate estate, although Upper Canada had but one voice in its favor ; they delayed and refused to pass the Clergy Reserve address in the same session, lest (as they said) the petitioners by Mr. Ryerson should profit by it ; and found, nevertheless, £50,000 to expend on Welland Canal, an unprofitable undertaking, *a job* prematurely gone into for the advantage of a few officers of this government, legislative counsellors, and speculators in waste lands.

“They neglected your numerous petitions, presented by myself and other friendly members, praying for the passage of many salutary enactments, or delivered them into the custody and safe keeping of placemen, by whom I had been personally insulted and defamed as a rebel and traitor ; and by this means prevented several useful bills being introduced into the House on your petitions.

“They passed the obnoxious York Marke. Bill in opposition to your petitions ; and in defiance of the protestations of your members, they negatived and condemned the principle of voting by ballot ; they disapproved by their votes of the excellent principle of regulating by law the sales of all public or Crown lands, and preferred the present secret or corrupt system ; they refused to censure the Lieutenant Governor for keeping back this election twenty-one days instead of eight, in order that it might interfere with your town-meetings and delay my return ; they refused to inquire into the Tea Monopoly, by which you are so heavily taxed ; they refused to remonstrate against the principle of the trade act of last April, so deeply affecting your interests ; they allow the important statements respecting extravagant pensions, salaries, fees, and law charges to slumber on their shelves, and thereby increase the incomes of attorneys, bailiffs, sheriffs, and other public functionaries at the expense of justice and good government ; they neglect to inquire into the details of the many

of Assembly, and a high breach of its privileges; that the author be expelled the House, and declared unworthy to hold a seat therein.* Mr. Hagerman had

thousands of pounds granted for road and bridge improvements; they neglect to inquire into the whole provincial expenditure, and to provide due checks on the revenue officers; they propose to double the power of the political bank at this place, and they get rid of motions for inquiring into the state of its affairs by motions for adjournment.

"They appoint committees on the state of the representation of the people in their own House, and refuse to allow said committees to report.

"They get rid of bills for the general regulation of Banking; revenue inquiries; bank inquiries; inquiries into salaries, incomes, fees, and perquisites; bills to amend the representation; inquiries into fines, forfeitures, seizures, and the application of the same, and of your opposition to destructive monopolies, by summarily expelling a member you sent to attend to these matters.

"They (the said majority) are chiefly placemen, during pleasure, such as sheriffs, crown lawyers, postmasters, judges, registrars, custom-house officers, military men on half pay or retired allowances, collectors of the customs elect, &c., &c., who receive from the government six if not ten times the amount they obtained from the people as legislators. They are the enemies of free discussion through the press, although such free discussion of the conduct of public men is your best guarantee for the preservation of the rights of freemen."

* "JANUARY 6, 1832.—Mr. Solicitor General, seconded by Mr. Elliott, moves that it be resolved, That William Lyon Mackenzie, Esq., a member returned to represent the county of York, in Provincial Parliament, has been expelled this House during the present session for the publication of certain gross, scandalous, and malicious libels, intended and calculated to bring this House and the Government of this Province into contempt, and to excite groundless suspicion and distrust in the minds of the inhabitants of the Province as to the proceedings and motives of their representatives.

"That since his re-election, in a certain newspaper called the *Colonial Advocate*, dated 5th January, instant, in an article therein published, entitled, 'Articles of Impeachment, or public accusations read and submitted to the consideration of the electors of the county of York, in County Court assembled, on Monday, January 2, 1832, by Mr. Mackenzie, their late member, against the Lieutenant Governor and the advisers of the Crown,' of which he has avowed himself the author, has, in high contempt of this House and its privileges, not only re-asserted the said gross, scandalous, and malicious libel, for which he, the said William Lyon Mackenzie, had been expelled; but hath also in the said articles endeavored, by false, scandalous, and malicious representations, to cause His Majesty's subjects of this Province to believe that the

the prudence to leave out of view the general censures on the Executive Council, and the demand for the dismissal of himself and Attorney General Boulton, which were to be found in the article, part of which he brought forward as a ground for expelling the author from the House. It is not to be supposed, however, that he was insensible to these reflections; and the Imperial Government afterwards took the advice of Mr. Mackenzie to dismiss both these functionaries. One of the principal grounds of that dismissal was the part they took in the expulsion of a political opponent from the House, upon pretexts that were deemed to be constitutionally untenable.

Only one hour was given to Mr. Mackenzie to prepare his defence, during which the House adjourned. On its re-assembling, the clerk, at the request of the accused, read the whole of the article—part of which was complained of as a libel upon the House—extending to more than five newspaper columns.

majority of their Representatives should be held in execration and abhorrence by posterity, as enemies to the liberties of the people they represent—as persons who would, by violent and unconstitutional means, destroy the liberty of the press, and convert the fifty members of which the House is composed into tyrants in close and unholy alliance with trained bands of public robbers:—Wherefore, It is resolved that the said William Lyon Mackenzie be expelled this House, and declared unfit and unworthy to hold a seat therein.

“In amendment, Mr. McNab, seconded by Mr. Vankoughnet, moves, that after the word ‘therein,’ the following be added, ‘during the present session of Parliament.’

“Debates ensued, and the House adjourned.”

“SATURDAY, JANUARY 7, 1832.—Mr. Perry, seconded by Mr. Shaver, moves that so much of the order of the day as relates to the question of privilege be discharged. Lost—Yeas 17, Nays 22.

“Mr. McNab’s amendment (see above, Jan. 6.) was then carried. Nays 19, Yeas 27.

“The final question, as thus amended, was then carried. Yeas 27, Nays 19

Such an article would not now arrest the attention of the House; much less cause its author to be punished for libel, in any shape. Whether, technically speaking, it was libellous or not, it was far less so than many articles in other newspapers, some of them written by members of the Assembly, and of which the writers were neither prosecuted in the courts, nor expelled from the House.

Solicitor General Hagerman showed a disposition to carry the abuse of privilege as far as the most despotic sovereign had ever carried the abuse of prerogative. That he had no natural dislike of libels he clearly proved, by the profuse use he made of them under cover of that very privilege in the name of which he asked the expulsion of a fellow member.* He described Mr. Mackenzie as "the worst of slanderers," who "would govern by means of the knife, and walk over the bleeding bodies of his victims." Of the minority of the House, he said, if they continued there, they "would continue as slanderers, or supporters of slanderers." "Mr. Mackenzie," he said, when he had closed his defence, "cast a malignant and wicked glare across the House;" and that "at that moment, he left what was most virtuous within the walls, and took away what was the most vile and debased." When, in the course of his defence, Mr. Mackenzie read extracts from the speeches of Sir

* When the question of Mr. Mackenzie's first expulsion was before the House, Mr. Hagerman, after disclaiming all personal feeling in the premises, said, "he would now vote for Mr. Mackenzie's expulsion; but if he should be re-elected, he would be the first to receive him; he would not interfere with the elective franchise; he would leave to the people the free choice of their representatives."

Francis Burdett, Earl Grey, Lord Brougham, Mr. Macaulay, and others, the Solicitor General exclaimed that they were "base and diabolical." Here were libels a hundred times worse than that against which they were uttered. The difference was, that the Solicitor General, as a member of the House, was treated as a privileged libeller; though assuredly the use of language which from its violence strikes at the very existence of deliberative assemblies, by tending to render all discussion impossible, could hardly be in order.

Mr. Mackenzie attempted to convince the House of its error, by showing that it was setting itself in opposition to public opinion; and pointing in proof to the approbation of his constituents, as shown both by his re-election, and the gold medal that had been presented to him. He then took out of his pocket the massive gold medal, and by means of the enormous chain of the same material suspended it round his neck; declaring that he would wear it while he held his seat, if it were only for an hour. The alleged libel had been read by him at the hustings; and after the electors had heard it, only one person could be found to vote against him. This was pretty strong proof of public opinion, in the metropolitan county of the Province; and no doubt the result would have been the same if the appeal had been to any other populous county in the Province. The county of York had an unequal representation in the House; and the matter would be made worse by depriving it of one of its members. The constituency that had approved his conduct and sent him back was on its

trial; and if he were expelled, the electors "would feel it their duty to come to the bar and defend their rights." The Solicitor General objected to the latitude taken by the accused; and the Speaker, being appealed to, declined to interfere; but he expressed a hope that "too great latitude would not be taken." After two or three other attempts on the part of the Solicitor General to stop the defence, on such grounds as that the reading of extracts from the English press to show the degree of liberty allowed there to criticisms upon Parliament, the Speaker declared Mr. Mackenzie out of order. Having appealed against the decision of the Speaker, whom the House sustained by a large majority, Mr. Mackenzie resolved to attempt no more. It was, he said, a farce and a mockery for the House to call on him to make his defence, and then prevent his proceeding. He disdained to attempt any further defence before such a tribunal. He then, according to the report of a journal violently opposed to him, tied up his papers, "after giving them a kick or two to put them in order, and walked out of the House amidst loud cries of 'order' from all sides."

The question was soon settled; the House voting the re-expulsion, by nine o'clock, the second day of the discussion, on a division of twenty-seven against nineteen.*

* YEAS—Messrs. Attorney General, Berezy, G. Boulton, Brown, Burwell, Chisholm, Crooks, Elliott, A. Frazer, Jarvis, Jones, Lewis, Macon, McMartin, McNab, Morris, Mount, Robinson, Samson, Shade, Solicitor General, Thomson, Vankoughnet, Warren, John Willson, W. Wilson, and Werden—27.

NAYS—Messrs. Beardsley, Bidwell, Buell, Campbell, Clark, Cook, Duncombe, Howard, Ketchum, Lyons, McCall, A. McDonald, D. McDonald, Norton, Perry, Randal, Roblin, Shaver, and White—19. Mr. Ingersoll, who was out of the House, would have voted with the majority.

The resolution, forged in the mint of the Solicitor General, went much beyond a mere expulsion. It declared the expelled member incapable of holding a seat in the House during that Parliament; thus assuming that a mere resolution of the House could create a disability to which nothing short of a specific law could give legal force.* If the object of Mr. Hagerman had been to place the House in the wrong, he could not have succeeded more effectually.

On the day that this second expulsion was proposed, the Legislative Council came to the aid of the Assembly. It complained of being libelled in the same article that had been arraigned in the other branch of the Legislature; and instead of addressing the Governor to order a prosecution of the publisher for libel, it sent to the Assembly resolutions, containing a "confident reliance" that the House "will view with just indignation the efforts made by one of their members for impairing the independence of the Legislative Council, and diminishing the respect which is due to them as a part of the constitution of this Province, and that they will desire to afford reparation to the Legislative Council for so unwarrantable a breach of their privileges."† Supposing this complaint of libel to

* "If," says May, in his *Constitutional History of England*, "by a vote of the House a disability, unknown to the law, could be created, any man who became obnoxious might, on some ground or other, be declared incapable. Incapacity would then be declared, not by the law of the land, but by the arbitrary will of the Commons."

† On the 9th January the House resolved to send a message to the Legislative Council, in answer to its resolutions. "The Solicitor General, seconded by Mr. Thomson, moves, That it be resolved that the Honorable the Legislative Council be informed that the resolutions of that honorable body of the

have been well-founded, the proper course would have been for the Council to address the Governor to order a prosecution, as was done by the House of Commons, in the case of Wilkes, who was only expelled after he had absconded to France. But there was a very substantial reason for avoiding this course. No conviction could have been obtained.

The alleged libel on the Legislative Council contained some plain truths which could not but grate harshly upon the ears of that Assembly. It also expressed some opinions, regarding which people differed at the time, and a few about which people still differ; but the number is less now than it was then. It was unhappily true that the Legislative Council was crowded with placemen and Executive dependents, and Mr. Mackenzie had the faculty of stating such unpleasant facts in a way calculated to create unpleasant sensations in those whom they affected; but in this case the greater part of the alleged libel consisted of a mere recital of bills rejected by the Second Cham-

6th instant were received at the time this House was engaged in the investigation of charges against the member named in those resolutions for an alleged breach of the privileges of the House of Assembly, which investigation has resulted in the expulsion of the said member as unfit and unworthy to hold a seat in this House, and therefore no further proceedings can be had on the complaint of the Honorable the Legislative Council. On which the House divided, as follows:—

“YEAS—Messrs. Berczy, Boulton, Brown, Burwell, Chisholm, Crooks, Duncombe, Elliott, Fraser A., Ingersoll, Jarvis, Jones, Lewis, McMartin, McNab, Maçon, Morris, Mount, Robinson, Samson, Shade, Solicitor General, Thomson, Warren, Werden, Wilson W.—26.

“NAYS—Messrs. Beardsley, Bidwell, Buell, Campbell, Clark, Cook, Howard, Ketchum, Lyons, McCall, McDonald A., McDonald D., Norton, Perry, Randal, Roblin, Shaver, and White—18.

“Question carried; majority eight.”

ber.* Whether these measures were good or bad was a matter of opinion. Mr. Mackenzie thought they

* Here is the alleged libel:—"The Legislative Council is chiefly composed of persons dependent on the Executive government for their salaries, pensions, and fees of office, or who have been selected by that government, upon the principle on which the English Tories have selected peers and bishops for the last forty years, absolute and unlimited servility. It also contains naval and military half-pay officers, Roman Catholic and Protestant bishops, venerable archdeacons, excise officers, and bank directors, and its official organ is the chief criminal judge of the colony. From its very nature and composition it has scarce one feeling or sentiment in common with the country, being the mere breath of the Executive, and an expensive and cumbrous screen to shield that Executive from deserved odium.

"The Legislative Council rarely, if ever, originates any bills of general interest for the advancement of the public prosperity.

"It has, on innumerable occasions, rejected the most wise, salutary laws—laws earnestly desired by the people, and calculated to promote their welfare. Among the measures thus wantonly rejected by the Council since my entrance into the Legislature, I shall particularly enumerate bills for abolishing the law of primogeniture and dividing real estate more equally among the sons and daughters of land-owners who die intestate; for selling a part of the Clergy Reserves for the benefit of the country; for rendering sheriffs and their deputies ineligible to seats in Parliament for places within their jurisdiction; for appointing commissioners to meet commissioners already appointed by Lower Canada, to consider of the regulation of trade, customs' duties, and other matters of mutual interest; for appointing, first, the Hon. J. W. Willis, and, secondly, Mr. Speaker Papineau, to act as a judge in equity and reconsider the case of Mr. Randal's Chaudiere estate; for assigning yards to debtors incarcerated in prison; for facilitating the administration of justice, by removing the grounds on which frequent charges of partiality and corruption, or deep suspicion of corruption, have often been made against sheriffs and coroners for arbitrarily returning and impanelling juries; for excluding the judges from the Legislative and Executive Councils; for relieving Quakers, Mennonists, and Tunkards from the payment of fines for non-performance of militia duty in time of peace; for establishing, on a just and liberal principle, Upper Canada College in this town; for authorizing creditors to sue for debts against the Canada Company; for allowing persons who may be charged with felony, and unable to defend themselves, the benefit of full defence by counsel; for the better regulation of township meetings and the duties of town and township officers; for more fully securing the independence of town members, by granting them the same wages as county members; for stopping the payment of an Episcopalian chaplain when the Assembly no longer required his services; for allowing the people of Kingston to elect municipal officers instead of having

were good, and the expression of that opinion could hardly be considered libellous by any disinterested person in possession of his reason.

The appeal which Mr. Mackenzie now made to the electors of York was in his most impassioned style, and may be taken as a very fair sample of his powers of agitation. As such I subjoin a few extracts from a somewhat unequal, and what lawyers would probably call a seditious, document:—

their local affairs regulated by a few irresponsible individuals arbitrarily selected by the Executive government; for granting a small aid for a few years to the Academy incorporated in Grantham; for incorporating a number of you as an association to hold your public store-house in York and store your grain; for repealing the £2,500, or pension-fund act; for amending the law of evidence and contracts; for amending the law of libel; for granting in 1829 £13,650 in aid of the roads; and for authorizing the appointment of commissioners of roads and other officers for the management of highways by the township meetings. Also, for lessening the number of lawsuits and authorizing the appointment of arbitrators in certain cases, &c., &c.

“The Legislative Council is the cause of much waste of time and money in the House of Assembly, by continually rejecting bills much called for by the people, which causes great delay in the business of the Assembly each year, in again going through and discussing the same measures. The Gourlay Banishment Repeal Bill, the Prince Edward Division Bill, and several other bills of a general or local character, were often passed in the Lower House at a great expense to the colony, and finally assented to.

“The Legislative Council is opposed to a liberal system of banking, because its members are almost all deeply interested in the political and exclusive bank already established, as well from their profits as stockholders as from the influence they derive as placemen from the secret control of this dangerous institution.

“The Legislative Council have passed addresses in favor of particular church establishments, and are as much opposed to the independence of the judges on the Crown, as they were anxious to secure their independence of the people. They have no fear of the present judges lacking in pliability towards any administration.

“The Legislative Council grant the money arising from the taxes levied on you to their door-keepers and favorites for pretended extra services, and last spring grossly imposed upon the House of Assembly by representing a demand made to pay a door-keeper a *douceur* for some pretended service some years before, as being to pay contingencies of the then existing session.”

“Canadians! You have seen a Gourlay unlawfully banished; a Thorpe persecuted and degraded; a Randal cruelly oppressed; a Matthews hunted down even to the gates of death; a Willis dragged from the bench of justice, slandered, pursued even across the Atlantic by envy and malice, and finally ruined in his fame, fortune, and domestic happiness; you have seen a thousand other less noted victims offered upon the altar of political hatred and party revenge; sacrificed for their adherence to the principles of the constitution; their love of liberty and justice; their ardent desire to promote the happiness of your domestic firesides. How many more sacrifices the shrine of unlawful power may require, none can tell. The destroyer is made bold by your timidity, and the base and unprincipled triumph over your truest friends, because they believe you will show a craven spirit, and put up with every possible insult, however aggravated. The hired presses style you the tag-rag and bob-tail who assemble at town meetings, and in the Legislature your most faithful members are daily insulted and abused as rebels in heart, and the factious abettors of the libeller, the disaffected, and the disloyal.

* * * Had Charles X. profited by experience as did his brother Louis XVIII., the elder branch of the Bourbons had yet reigned in France. Louis was illuminated by his journey to Ghent, and stuck by the charter ever after. But it is said that our great men put their trust and confidence in the troops at Kingston and in this garrison. Do they expect to make butchers of British soldiers, the soldiers of liberty, the friends of freedom, the conquerors of the tyrant

of France, the gallant followers of the noble-hearted Colonel Douglas? Are these the men they expect to protect them should continued misrule bring upon them the indignation of an injured, outraged, and long-suffering community? Do they suppose that men of honor would violate their obligation to their country and their God, and imbrue their hands in the blood of their kind and confiding brothers, to gratify the bitter enemies of their noble King? Surely, the champions of British liberty are unfit to perform the drudgery of menial slaves! Surely, the men whom our beloved Sovereign has sent here to protect us from foreign aggression cannot desire to abridge our privileges. Their rights are ours—their history our history—their earliest recollections ours also! We acknowledge one common origin; our fathers worshipped together in one temple. Does the infatuated junto, who are now acting so foolishly, expect the bravest of Scotland's sons to sabre their countrymen merely because they do not conform to the doctrines of prelacy and follow the example of Archdeacon Strachan to apostacy and worldly wealth? Do they believe there is a soldier in Canada whose youthful heart ever bounded with joy in days of yore, on old Scotland's hills, while he sang the national air of 'Scots wha hae wi' Wallace bled,' and whose manhood has been employed in repelling foreign aggression, who would disgrace his name and the regiment he belongs to by increasing the widows and orphans of Canada? And yet, if such are not the expectations of our rulers, why do they trifle with the feelings of the people? What would a handful of troops be to the natural aristo-

cracy of Canada, the hardy yeomanry who own the soil, even if the former were of the most ferocious class of human beings, instead of the manly and accomplished defenders of their country, covered with immortal honor and unstained laurels on many a victorious battle field? I disdain to hold out threats, but it is time to speak with plainness. * * *

“We come, at last, to the leading question, What is to be done? Meet together from all sections of the country, at York, on Thursday next, the nineteenth instant, in this town, on the area in front of the court house; let the farmer leave his husbandry, the mechanic his tools, and pour forth your gallant population animated by the pure spirit of liberty; be firm and collected—be determined—be united—never trifle with your rights; show by your conduct that you are fit for the management of your domestic affairs, ripe for freedom, the enlightened subjects of a constitutional Sovereign, and not the serfs of a Muscovite, or the counterpart of a European mob! Strive to strike corruption at its roots; to encourage a system calculated to promote peace and happiness; to secure as our inheritance the tranquil advantages of civil and religious freedom, general content, and easy independence. Such a connection as this with our parent state would prove long and mutually beneficial; but if the officials go much further they will drive the people mad.”

To a certain extent, the majority of the Assembly had, by the injustice of which they had been guilty, gained their point. They had goaded their victim into the use of expressions which in his cooler mo-

ments he had never used. It must not be overlooked, however, that whatever there was of menace in his impassioned language, it was directed against the Provincial oligarchy. A marked distinction was made between them and the "noble King," whose "soldiers of freedom" were the "champions of British liberty." If he was indiscreet, we must not forget the galling provocation to which he had been subjected: in being not only expelled the Legislature for libels that others might print with impunity; but, with a view of preventing his re-election, the organs of the official party had represented that he was loaded with a disability unknown to the law, the creation of the arbitrary will of the House of Assembly. We shall see, as we proceed, that some members of the Family Compact shortly afterwards threatened to throw off their allegiance upon infinitely less provocation.

The election of a member, to represent the county of York, in the place of the expelled representative, commenced on the 30th January; Mr. Mackenzie being proposed, for the fourth time, by Mr. Joseph Shepherd. Two other candidates, besides Mr. Mackenzie—Mr. James E. Small, and Mr. Simon Washburn—presented themselves. Mr. Small stated from the hustings that "he did not come before the freeholders as approving of the conduct of the Assembly, in their repeated expulsions of Mr. Mackenzie; he considered their proceedings, in these cases, arbitrary and unconstitutional. But as they had declared Mr. Mackenzie disqualified, he had come forward, presuming that the electors would see the expediency of not electing a member who could not take

his seat. He opposed Mr. Washburn, not Mr. Mackenzie, who, he was satisfied, would have a majority of votes." Mr. Washburn, on the contrary, expressed his approval of the proceedings of the Assembly, in the expulsion of Mr. Mackenzie, of whom he spoke in terms of harshness, similar to those used by the more violent of the majority of the House. Mr. Washburn retired, on the second day of polling, much disgusted at having received only twenty-three votes. Mr. Mackenzie received six hundred and twenty-eight votes, and Mr. Small ninety-six.

Such a result might have been expected to convince the Assembly of the folly of their proceedings; but the truth is, the majority was entirely inaccessible to reason.

In the meantime, the Legislative session had been closed. Before the prorogation, Mr. Peter Perry moved to address the Lieutenant Governor to dissolve the House, in consequence of the excitement created in the country by the two expulsions of Mr. Mackenzie; for which motion he obtained eighteen votes against twenty-seven. The House, as if proud of its achievements, ordered two thousand copies of the proceedings on the privilege question to be printed.

In the absence of Mr. Mackenzie from the Assembly, the Bank of Upper Canada had been authorized to increase its stock to a very large extent, in spite of the refusal of its managers, on a previous occasion, to give to a committee of the House information on points of the first importance. The Bank was unpopular from the circumstance of the government holding stock in it, and appointing representatives of that stock at the Board of Direction. A large amount of

stock was held by members of the Legislative Council; who, in enlarging the powers conferred by the charter, were legislating for their own individual interests. Under the rules to which the Assembly is now obliged to conform, members similarly situated would not be permitted to vote at all on the question. No other member of the House understood so well as Mr. Mackenzie the checks necessary to impose on banking corporations, for the security of the public; and his expulsion caused the suspicion to be expressed that the interested members of the House were not uninfluenced by the consideration that, in his absence, any bank scheme they might bring forward would be sure to succeed.* The bill was, however, vetoed in England, at the instance of Mr. Mackenzie, as based on unsound principles.

Frazer, a man of coarse manners and violent language, publicly threatened to horsewhip Mr. Mackenzie from his place in the Assembly during the mock trial; and it is said that within twenty-four hours he received from Sir John Colborne a promise of the collectorship of Brockville. The promise was faithfully fulfilled.

* It is proper to say that very few shares were held by members of the House. Mr. H. J. Boulton was interested as Solicitor to the Bank, and doubtless many other members expected favors from it. A Bank of U. C. return for 1831 showed that only fifty-seven shares were held by members of the House. 1,629 shares were held by members of the Legislative Council, and 1,402 by officers of the government; the government itself holding, on behalf of the Province, 2,000 shares. Other Provincial Banks were, at that time, conducted upon anything but correct principles. The whole capital stock of the Bank of Montreal, on the 15th November, 1830, was £250,000; and at the same time the Directors had borrowed from the bank £120,473, and were endorsers for others for £60,570 more! In short they had borrowed nearly three-fourths of the whole capital of the bank.

CHAPTER XVI.

Popular Excitement and Sympathy for Mackenzie—Grievance Petitions—Attempt to Assassinate Mackenzie—Trial and Conviction of Kerr for the Outrage—Mackenzie Denounced by a Catholic Bishop—Disturbances in York, and another Assassination Plot—Journey to England—Witnesses the final reading of the Reform Bill—His Impressions of Earl Grey, O'Connell, Rev. Mr. Irving, and Cobbett—Hume forwards his Objects—Interview with Lord Goderich, Colonial Minister—Refuses the Postmaster Generalship of Upper Canada—Lord Goderich's Dispatch and Concessions—The Legislative Council and Assembly on the Dispatch—Mackenzie procures the Dismissal of the Crown Officers in Upper Canada—The Tories threaten to revolt—Hagerman restored to the Solicitor Generalship, and Boulton appointed Chief Justice of Newfoundland—Post-office Policy and Revelations—Disallowance of Bank Charters—Other Colonial Agents—Mackenzie's "Sketches of Canada and the United States"—Revisits Scotland—Returns to Canada—Declines public Dinners.

SIR WALTER SCOTT has stated somewhere that mankind feel more interest in the fortunes of two lovers than in the fate of a nation. An interest scarcely inferior attaches to the career of an individual whom the public regards as the victim of injustice, whose crime consists of his having defended a popular right or contended for a principle. The majority of the Assembly, in attempting to crush an opponent, had made a martyr. The natural result followed. The expelled member had crowds of sympathizers, in all parts of the Province. Public meetings were held to denounce this arbitrary stretch of privilege. Petitions to the

King and the Imperial Parliament for a redress of grievances, of which the expulsion of Mr. Mackenzie was one, were numerous signed. Of these petitions, it was already known, Mr. Mackenzie was to be the bearer to the Colonial office; where he would personally advocate the reforms for which they prayed.

A counter movement was set on foot by the official party. With the Reform ministry, in England, this party was not very sure of its standing. The petitions that had already been sent to the Colonial office, from Upper Canada, complaining of grievance and praying that they might be redressed, had produced an impression adverse to the official party in the Province. What might be the result of Mr. Mackenzie's visit, armed with numerous petitions, unless some antidote were applied, it would be impossible to tell. The prospect which this state of things held out enraged the official faction; and in more than one instance they resorted to violence, from which Mr. Mackenzie only escaped, by something little short of a miracle, with his life.

On the 19th of March, 1832, one of the meetings called by the government party was held at Hamilton. Mr. Mackenzie attended by special invitation. The meeting was a public one; and the opposition had determined to measure numbers with their opponents. Mr. Wm. B. Sheldon, of Barton, was proposed to be voted into the chair; and the Tories, fearing a defeat, assumed a tone of menace. Wm. J. Kerr, showing a more violent disposition than the rest, swore that no one but the Sheriff should preside. As too often happens where two political parties attempt to out-

number one another, at a public meeting, great confusion occurred. On a show of hands both parties claimed the victory; but the Sheriff took the chair. The other party—represented by a local paper as being much the more numerous—retired to the Court House Green; where an address to the King was adopted.

After the meeting, Mr Mackenzie had retired to the house of a friend, Mr. Matthew Bailey, where he dined, a few other friends being present. A rumor had been circulated, in whispers, that a plan had been formed, during the day, to take Mr. Mackenzie's life, or at least to do him such bodily injury as would render it impossible for him to make his contemplated journey to England. Several of his friends apprised him of this, and urged him strongly to leave town before dark. Mr. Davis three several times attempted to persuade him to go in his carriage to Wellington Square. He declined all this advice, and all offers of conveyance that would take him out of town before dark; saying that he should prefer to start by the stage at eleven o'clock. About nine o'clock that night, when he was sitting in a parlor up stairs, with a friend, writing, the door was suddenly opened without any premonition, and in stepped Kerr and one, George Petit. When asked to take seats, one of them, Kerr, at first refused, but almost immediately after sat down. He almost instantly rose again, and walking up to the table and turning over the sheets Mr. Mackenzie had been writing, remarked with much apparent good humor: "Well, Mr. Mackenzie, have you got all our grievances redressed at last?" Some-

thing more was said, when Kerr, asking Mr. Mackenzie to speak with him in private, was at once lighted down stairs by the unsuspecting victim, by whom he was followed. Kerr opened the street door; and, while standing on the steps in front, introduced Mr. Mackenzie to two or three accomplices,* remarking, "This is your man," or "This is our man." All at once, one of them seized him by one side of the coat collar, while Kerr seized the other. The candle was dashed to the ground, and they attempted to drag their victim, in the dark, into an open space in front of the house. Mr. Mackenzie, on whose mind the terrible truth now flashed—the warnings he had received that a plan had been made to murder him, and a threat made by Kerr some months before to take his life, instantly coming to his recollection—grasped the door, and struggling in the hands of the assassins, shrieked, "Murder." One of the party now struck him a terrible blow with a bludgeon, felling him down upon the stone steps, whence he was dragged into the square in front of the house; where he received repeated kicks and blows, and his life was only saved by the opportune arrival of some neighbors, with Mr. Bailey's brother; one of whom, named Peck, an Irish laborer, caused Kerr to desist by approaching him with an uplifted billet of wood. The villains took to their heels, except Kerr who was upon the ground;

* It was stated in a local paper, at the time, the editor of which was present with Mr. Mackenzie, in the House, that two of these were James Dennis and Oliver Richie; and the statement was afterwards repeated in a work published by Mr. Mackenzie, in London. There is, however, no judicial evidence of the identity of Kerr's accomplices; as he was the only one brought to trial for the outrage.

and when he rose, he resorted to the stratagem of assuming not only the innocent man but the protector, saying, "Don't be afraid, Mr. Mackenzie; you shan't be hurt, you shan't be hurt." He then scamp-ered off as well as he could—for he was permanently lame—after his accomplices; and next morning he was heard boasting at the Burlington canal—a govern-ment work of which he was manager—that he had saved Mackenzie's life from the attempt of a band of ruffians! The victim was found to be bleeding profusely, disfigured in the face, injured in the head, and hurt in the chest. "I was very unwell all next day," he said, "but able to sit up. I was a ghastly spectacle to look upon; and for months after I felt the effects of the blows and bruises."

Mrs. Bailey was so alarmed at the outrage enacted in front of her husband's house, that she was seized with convulsions, and was in such an alarming condition, during the greater part of the night, that it was at one time feared she would lose her life or her reason. She gradually recovered towards morning.

It has been stated that Kerr and his friends met next day, vowing to complete, at night, the work they had begun; but, however this might be, Mr. Bailey's house was too well guarded to render such an attempt at all prudent, and it was not made.

Kerr was a magistrate, and had charge of a public work. He was a man who might safely be looked to to take his share of rough work, without any disappointment of expectations, as this outrage is sufficient guarantee. He was brought to trial, for the part he played in it, in August, 1832, at the Gore District As-

sizes; some person, unknown to Mr. Mackenzie, having laid the information. Mr. Macaulay was the presiding judge; and, considering the relations of all the parties, it is proper to say that he showed the greatest impartiality on the trial, though there might be a question about the adequacy of the punishment awarded. A fine of \$100 is hardly felt by a man said to be worth £5,000 or £6,000. And the assault was of that aggravated nature which irresistibly carries with it the idea of serious premeditated injury, if not something more. The first blow would probably have proved fatal, had not the bludgeon come in contact with the lintel of the door. Solicitor General Hagerman appeared as prosecutor on the part of the Crown.

The name of Mr. McNab, as probable adviser of the outrage, has been freely used, both at the time and since; but as there is no evidence, beyond the fact that some of his friends were engaged in it, he must be acquitted. As the facts clearly show a conspiracy, it is strange that Kerr was the only one convicted. On what ground Petit could have been allowed to go scot-free, it is difficult to imagine; but he was admitted as a witness on the part of the defence, and he was permitted to evade answering the question whether he knew anything about a premeditated attack, by saying he himself had not gone to Bailey's to assault Mr. Mackenzie. His numerous evasions of the question, put in various shapes, could only lead to one conclusion, and that conclusion pointed to a conspiracy which no attempt was made to unravel.

The example of Hamilton was to be followed in York. Parties were pretty equally balanced at the

capital; and the official magnates were not always inclined to make a display of their tolerance at public meetings. On the 6th of July, 1830, they had refused to allow Mr. Mackenzie to be heard, at a public meeting called to organize an Agricultural Society, and now they were emboldened by the measurable success of the Hamilton venture. The meeting having been called for the 23d of March, the semi-official organ* of the Government undertook to "caution the faction against any attempt at deception," at the meeting, and threatening that, if the caution were not heeded, "we most assuredly would not ensure the leading revolutionary tools† a whole skin, or a whole bone in their skins, for the space of fifteen minutes." A sufficiently audacious threat! At the present time we look back with astonishment at the insolent tone of the semi-official journals of those days; but when we scan the conduct, and read the language of Solicitor General Hagerman, in the Assembly, we cannot doubt that they faithfully reflected the feelings of the official party. No special constables were sworn in, or any other precautions taken to preserve the peace. The meeting having assembled at the Court House, Dr. Dunlop, of the Canada Company, and Mr. Ketchum, member for York county, were respectively proposed

* *The Upper Canada Courier.*

† The same paper, after the meeting, spoke of the farmers of Yonge street as a herd of swine: "Every wheel of their well organized political machine was set in motion to transmute country farmers into citizens of York. Accordingly, about nine in the morning, groups of tall, broad-shouldered, hulking fellows were seen arriving from Whitby, Pickering, and Scarborough, some crowded in wagons, and others on horseback; and Hogg, the miller, headed a herd of the swine of Yonge street, who made just as good votes at the meeting as the best shop-keepers in York."

as chairman. As is usual, in such cases, both parties claimed the victory; but Dr. Dunlop took the chair, when the Reformers withdrew and organized an open air meeting, in front of the Court House, making use of a farmer's wagon for a platform. Mr. Ketchum being made chairman, Mr. Mackenzie, suffering considerably from the injuries he had received at Hamilton, began to address the meeting; stones and other missiles were thrown by the opposite party; close connections of some of the officials being engaged in the work. The riot soon assumed a serious aspect. A ruffian in the crowd drew a knife, with which he threatened the speaker. The wagon in which Mr. Ketchum and the speaker were standing was seized and drawn for some distance, amidst threats and imprecations. The Sheriff told Mr. Ketchum he was unable to preserve the peace, and begged him to bring the meeting to a close. Some one hit upon the expedient of advising the "friends of the Governor" to go up to Government House and cheer His Excellency. This being done, peace was restored, a new chairman appointed, and an address to the King resolved upon. After Mr. Mackenzie had addressed the meeting for about twenty minutes, those who had not signed the address went to his residence, at the corner of Church and Richmond streets, where, upon tables in the street, four hundred and thirty-eight names were added. While on his way, Mr. Mackenzie was seized hold of by Captain Fitzgibbon. On being questioned as to his intentions, Captain Fitzgibbon said he was going to take him to jail, to secure his protection from the mob. Mr. Mackenzie's friends, to whom his answer was given, re-

plied that there was no necessity for this, as they would undertake to guarantee his safety; upon which Mr. Mackenzie went to his own residence. The disorderly mob, who had been to cheer the Governor, returned, bearing an effigy of Mackenzie, which they burnt, and then made an attack upon the office of *The Colonial Advocate*. They broke the windows and destroyed some of the type, and were only prevented from doing further mischief by the exertions of a few individuals, among whom was an apprentice in the printing office, named Falls, who fired a gun loaded with type,* overawing the rioters. Captain Fitzgibbon did everything in his power to restore peace; and the Lieutenant Governor gave orders for seventy-five soldiers to be ready at a moment's notice, if required. Three or four magistrates remained at the police office all night, swearing in special constables; and a guard of citizens volunteered to protect Mr. Mackenzie's house and printing office. At midnight a mob surrounded the office, when Captain Fitzgerald ordered them to disperse, and threatened, if they did not obey, to call out the troops, which were kept under arms all night. This admonition had the desired effect, and the crowd, headed by a son of one of the Executive Councillors, moved off without venturing to execute the violence they had meditated. The house had to be guarded for three weeks, during which time Mr. Mackenzie remained in the country for safety; and the young man, who fired on the rioters, had to leave the city in consequence of his life being threatened.

A novel division of parties took place at this meet-

* *Christian Guardian*.

ing; the Roman Catholics going with the Family Compact. Mr. Mackenzie, who at all times made it a point of respecting every man's honest religious convictions, and quarreling with none on account of their particular views, had somehow managed to get at loggerheads with Bishop McDonnell. It was stated on clerical evidence that the latter had denounced him from the altar.* The bishop received an annuity of some £500 sterling, and the Church something more, from the government; and these grants were objected to as invidious and unjust to other denominations. From one party came the emolument; from the other the objections; a condition of things that might well be supposed to influence the political preference even of a bishop, not otherwise burthened with wealth. But, however it may be explained, the Roman Catholics were, contrary to their usual habit, found in alliance with the Family Compact, on this occasion. At the

* Dr. O'Grady, a Roman Catholic Priest, in his evidence before the Grievance Committee, in 1835, stated that Bishop McDonnell "got up a petition against Mr. Mackenzie, attended a public meeting in Mrs. Jordan's inn, and harrangued the people; and by the use of the most inexcusable misrepresentations, obtained signatures to the said petition, inducing the signers to believe, from altars dedicated to the service of religion, that the document to which he invited them to affix their names was intended solely for the advancement of the Catholic Church. Shortly after he left here (York) for Penetanguishine, accompanied by the Rev. Messrs. Gordon and Crevier; and Mr. Gordon told me that he stopped on his way to perform divine service in the Catholic Church of the township of Toronto, and that he did, on that solemn occasion, instead of preaching the morality of the gospel, inveigh in the most violent and unbecoming manner against William Lyon Mackenzie. He went from that [place] to Adjula, where he parted from the Rev. Mr. Gordon, having given him previous instructions to obtain signatures in the best manner he could to a blank paper, which he left with him for that purpose. The Rev. Mr. Gordon told me that he was shocked and scandalized at the manner in which this political crusade was conducted."

same time there appears to have been a good deal of political division among them; a meeting having immediately after been held in York, at which no decision was come to on the relative merits of the two political parties.

In April, 1832, Mr. Mackenzie started on his journey to England, as the bearer to the Imperial Government of petitions, which had, for the most part, been born of the excitement arising out of his expulsion from the Legislative Assembly. He expected to return in six months; but was delayed nearly a year and a half. During his absence, Mr. Randal Wixon took charge of *The Colonial Advocate*. The packet Ontario,* on which Mr. Mackenzie sailed, with his

* The following song, wishing God-speed to the agent, is one of several of the same kind, published about this time. It was dated Markham, April 10, 1832, and signed DIOGENES:

Now Willie's awa' frae the field o' contention,
 Frae' the Land o' misrule, and the friends o' dissension;
 He's gane owre the waves, as an agent beftin';
 Our claims to support, in the councils o' Britain.

Nae mair shall the *Soup-kitchen beggars** annoy him,
 Nor the *Hamilton murd'ers* attempt to destroy him;
 Nae dark deed o' bluid shall he dread their committin';
 He's safe frae their fangs, on his voyage to Britain.

Blaw saftly ye breezes! nae turbulent motion
 Disturb, wi' rude billow, the breast o' the ocean;
 But zephyrs propitious, wi' breath unremittin',
 May waft him wi' speed, and wi' safety to Britain.

There, there, the REFORMERS shall cordially meet him,
 An' there his great namesake, KING WILLIE, shall greet him;
 Our PATRIOT MONARCH, whase name shall be written,
 Wi' letters o' gowd in the Records o' Britain.

* This refers to some of the persons engaged in the York riot, on the 23d of March.

wife, had on board sixteen cabin and six steerage passengers. He described her as "a sort of Noah's ark," having on board pigs, poultry, turkeys, geese, and a milch cow." The passage from New York to Portsmouth was made in twenty-nine days, commencing on the first of May. Writing to Toronto, after he had got on board at New York, he said: "I trust that the good providence of that merciful Power who has protected and watched over your humble correspondent until now, will continue to preserve him, direct all his steps, and promote the object of his mission, in as far as that object would be for the good of Canada and of the English people."

The number of letters he wrote on board the vessel attests that constitutional activity which always prevented his remaining idle; an activity which sometimes took strange freaks, and of which an example may be given in his going up to the mast-head, the first night

Gae, Canada's Patriot, gae, strang in your mission,
Gae bear to our Sov'reign, his subjects' Petition;
Our Despots unmask—shaw the deeds they're committin',
Pervertin' the blest Institutions o' Britain.

An' dread na the Tories—they're toss'd frae their station,
Thae tools that degraded and plundered the nation,
The Bigots—the mitred, the titled are smitten
To earth—and the Whigs are triumphant in Britain.

Tho' here, we've a brood o' the Reptiles remainin',
Like Vampyres, the vitals o' Canada drainin';
Yet lax is their tenure, unstable their fittin',
An' they'll soon be extinct like the Vermin o' Britain.

Gae, Champion o' Freedom! fulfil your great mission;
The cause you're engaged in defies opposition;
An' Liberty's laurels, new glories emittin',
Shall garland your brows when returnin' frae Britain.

in a storm, and only descending just before one of the sails was blown away.

The organs of the official party affected to be merry at the idea of a man who had twice been expelled from the Legislature, and declared incapable of sitting during that Parliament, taking a budget of grievances to Downing street, and expecting to obtain a hearing. But they had reckoned without their host, as the event proved.

He arrived in London in time to witness the third reading of the Reform Bill in the House of Lords :

“Having obtained the order of a member of the House of Lords for admission to the gallery on the eventful night of the third reading of the Reform Bill, I went as early as four o’clock, and obtained an excellent seat both for seeing and hearing in the front tier of seats immediately opposite the throne. It was well that I did so. Had I been a few minutes later, the order would have been of no avail, as the gallery holds only eighty persons, and each nobleman being entitled to give an order for the admission of one person, it was filled to overflowing almost immediately. At half past four but few of the peers had arrived; and perhaps a dozen members of the Commons’ House were standing at the bar. They have either to stand or sit down on the matting, there being neither chairs nor benches placed for their accommodation.”

With the appearance and bearing of Earl Grey he was in raptures:—

“Well does Earl Grey merit the high station and distinguished rank to which he has been called; truth and sincerity are stamped on his open, manly, Eng-

lish countenance; intelligence and uprightness inscribed on all his actions. You may read his speech in *The Times* or *Chronicle*; you may imagine to yourself the noblest, happiest manner in which such sentiments might be delivered by a sincere and highly gifted patriot; still your conception will fall far short of the reality of the admirable address and manner of the prime minister of Britain. His Lordship had need of neither the peerage nor the post he fills to point him out as one of the first among men; he was—he is one of that aristocracy of nature which in any free country are found among the pillars of its liberties, and in any despotism among the foremost to break the tyrant's yoke, or perish in attempting it." There was every thing to hope, Mr. Mackenzie wrote, from the justice of Earl Grey. Upper Canada affairs, he felt assured, would "be put to rights." He was naturally of a sanguine disposition, and was also subject to severe fits of despondency.

His impression of O'Connell was also very favorable:—

"I have heard Mr. O'Connell, the great Irish agitator and champion of emancipation, address a meeting of one of these [Trades' Political] Unions, not less than eight hundred or one thousand members being present. He has the most perfect self-command, and an inexhaustible fund of genuine wit and broad humor; is one of those speakers you can listen to for hours, and yet regret when you cease to hear the sound of his voice. There is a quaintness in his manner of expression which gives double effect to his jokes and witticisms. Yet he can be lofty and majestic when he

pleases ; and I rejoiced to perceive that his original and flowing eloquence, as he told in strong and emphatic language of the wrongs of Ireland, drew from an English audience the most enthusiastic, sympathetic cheers. I rarely ever witnessed a more successful speaker, in his popular character of an agitator, than Mr. O'Connell."

After he had been introduced to Mr. O'Connell, he writes under date, "19 Wakefret Street, Brunswick Square, London, July 28, 1832.

"Mr. O'Connel is a man of whom all Irishmen ought to be proud. In their cause, in Ireland's cause, in the cause of civil and religious freedom all over the globe, he is a powerful and consistent champion, and likely to be a successful one. He has also manifested the warmest attachment to the Canadas ; and the kind manner in which he spoke to me of our affairs, and the interest he manifested on our behalf, entitles him to my lasting gratitude."

Having frequently gone to hear the celebrated Mr. Irving, who was then making a great sensation in London as a preacher, Mr. Mackenzie wrote :—

"Although I do not like the interruption from persons speaking, as if inspired, in an unknown tongue, yet there is something so noble, so honest, so captivating about this eloquent divine that I always leave the church more firmly determined to go back next Sunday, and always do so. There is such a power and energy in his discourses, such a simplicity in his manner, such convincing proofs of great judgment and sincere good-will towards men in his language and

actions, that I cannot but feel the greatest regard for him as a minister. He preaches seventeen times a week, in doors and out, and his audiences frequently include the first families in the land."

Canadian affairs were accorded attention in social circles, where Mr. Mackenzie moved.* His estimate of Cobbett, formed from a personal acquaintance, does not exclude the defects of that remarkable man. In a letter, dated "September 20, 1832," he writes:—

"I am not sure that I mentioned to you that I dined on Sunday, last July, with the celebrated Mr. Cobbett, at his country-seat, Kensington. I was glad to accept an invitation which enabled me to see a man who has filled a large space in the public annals of Britain for the last forty years, at home. Mr. Cobbett is the centre of a party, formidable in numbers and not deficient in talent. He is a keen and unsparing critic, reviewing and animadverting upon the plans of other men with great severity and unquestioned skill. He is likely to succeed in being returned for the two hundred thousand inhabitants of Manchester to the new Parliament, which will give him great weight. His plans then will be exposed to the test of Legislative

* In his letter of the 28th July, from which an extract has already been made, he says:—"I was lately an invited guest at a dinner given in the White Conduit House, Pentonville, to the memory of Major Cartwright, an old and constant Reformer. Many distinguished friends of reform were present; Mr. Hume was chairman, supported by Sir John Scott Lillie, Deputy Lieutenant of Middlesex, the Editor of the *Westminster Review*, Colonel Evans, Mr. Babbage, etc. In the course of the evening, Mr. Hume gave as a toast, 'Reform in the Colonies,' and spoke at some length on the state of the Canadas. Of course, I returned thanks in a short speech. A Polish Professor from Warsaw spoke next, and gave a very interesting but melancholy account of the present state of Poland."

investigation, and we shall see how far he will be able to carry into practice his theory of an equitable adjustment of the national grievances, debts, bonds, and obligations. Mr. Cobbett I consider a happy man. With the experience of threescore he possesses the vivacity of eighteen. He is pleased with himself, with his plans, and his prospects. Has a fine family, a comfortable fireside, and enjoys excellent health. He talks as much of trees, and flowers, and gardening, and agriculture, as of matters of government; and has evidently made farming his study to a great extent. I should not be at all surprised if we find him not so great a democrat in the House of Commons as he is in the *Weekly Register*. Mr. Cobbett is tall and well made, ruddy complexion and good-looking; his hair is as white as snow, and no sign of baldness. He is evidently a man of an ardent temperament, of strong and powerful passions, and I believe his object is to increase the comforts and lessen the misery of the great body of the people; but it is evident he is not very scrupulous as to the means of bringing about this great good. Mr. Noah, of New York, in his *Advocate*, and more recently in his *Enquirer*, and Mr. Cobbett, of Bolt Court, in his *Register*, appear to me to have adopted the maxim that 'all's fair in politics'—they both put forth, in a powerful strain of sarcasm or invective against political opponents, statements not always so correct as they might be. Indeed, Mr. Cobbett has evidently acted towards both Whigs and Tories for many years as though he considered them an organized band of public plunderers, legalized by unjust statutes to oppress mankind, and of whom no-

thing could be said that would be 'too bad.' Mr. Cobbett's manner is kind and prepossessing, but I think he does not bear contradiction so well as some men of less genius and power of mind."

Cobbett noted down the heads of an article which he intended to write on Canada, but he does not appear to have carried his intention into effect.

Mr. Mackenzie made the acquaintance of Mr. Rintoul, editor of the *Spectator*, and Mr. Black, editor of the *Morning Chronicle*, which then held almost as important a position as *The Times*; and he was enabled to address to the British public, through these journals, any observations he had to make on the subject of Canada.

Of all the members of the House of Commons, Mr. Hume rendered the greatest assistance to Mr. Mackenzie. He was on the best terms of friendship with the Ministry, though he kept his seat on the opposition benches, and pursued that independent course which seemed to be the only one possible to him. When he laid before the House of Commons the petitions of which Mr. Mackenzie was bearer, he did so not only with the knowledge and consent of the government, but "he was happy to have the assurance of Viscount Goderich, [Secretary of State for the Colonies,] that his Lordship was busy inquiring into the grievances complained of with a view of affording relief." Mr. Mackenzie had, by this time, already had an interview with the Colonial minister, and, in company with Mr. Hume, Mr. Viger—who had gone to England on a similar mission, on behalf of Lower Canada—and Mr. George Ryerson—who had gone to England on

behalf of the Methodist Conference—he was to have another interview, in a few days.

This first interview, at which all the four gentlemen named met Lord Goderich, took place on the 2nd of July, 1832, at two o'clock, and lasted between two and three hours. The attempts made to lessen Mr. Mackenzie's influence, in the shape of attacks by political opponents in Canada, in the various forms they had taken, appeared to go for nothing with Viscount Goderich. Mr. Mackenzie could not trace the effect of such influence. "The conduct of the Colonial minister," he found to be "friendly and conciliatory; his language free from asperity; and I left him," adds Mr. Mackenzie, "with the impression strongly imprinted on my mind that he sincerely desired our happiness as a colony, and that it was his wish to act an impartial part." The agent of the Upper Canada petitioners explained at length his views of the state of Upper Canada. Viscount Goderich encouraged the deputation to lay the petitions before the House of Commons; and he appears to have recognized, from the first, the substantial nature of many of the grievances which were subject of complaint. If the ministry had shown a disposition to treat the petitions as of no great importance, Mr. Hume would have brought the whole subject of the political condition of Upper Canada before the House of Commons; and as he would have been warmly seconded by O'Connell and others; an effective demonstration would have been made. Although Mr. George Ryerson was present at this interview, he took no part in any of the questions dis-

cussed except those relating to religion and education, with which he had been specially charged.

On the 3d of August, Mr. Mackenzie, in company with Mr. Hume and Mr. Viger, had a second interview with Viscount Goderich, at the Colonial office, commencing at two o'clock and lasting about an hour and a half. "We left the Colonial office," Mr. Mackenzie wrote, "well satisfied that measures are about to be taken that will go a great way towards neutralizing the existing discontents."

These interviews were not obtained through the intercession of Mr. Hume, by whom the agent had first been introduced to members of the ministry, but at the request of Mr. Mackenzie, who desired that the three other gentlemen might be included with himself. He afterwards had several interviews with Lord Goderich, at which no third person was present. The Colonial Minister listened to Mr. Mackenzie's statements with the greatest attention, though he observed a decorous reticence as to his own views; and even when he had come to conclusions, he did not generally announce them till he put them into an official shape. In one of those interviews, Mr. Mackenzie complained that the revenue of the Post-office Department, in Upper Canada, was not accounted for, when Lord Goderich proposed to divide the management of the department in Canada, and give Mr. Mackenzie control of the western section, with all the accruing emoluments. Mr. Mackenzie replied by saying: "So far as I am concerned, the arrangement would be a very beneficial one, as I could not fail to be personally much benefited by it; but your Lordship must

see," he added, "that the evil I complain of would be perpetuated instead of being remedied. I must therefore decline the offer." Mr. Mackenzie estimated the value of the office, undivided, at \$15,000 a year; one half of which he would have obtained if he had accepted Lord Goderich's offer. This was in strict accordance with the whole practice of his life. With every opportunity of acquiring competence, and even wealth, he lived a large portion of his life in poverty, and died under the pressure of pecuniary embarrassment.

Mr. Mackenzie was not received at the Colonial office in a representative character—he was delegated by the York "Central Committee of the Friends of Civil and Religious Liberty"—but as an individual having an interest in the affairs of the Province, and a member of the Legislature of Upper Canada. It was agreed that he should address what complaints he had to make to the Colonial Secretary in writing;* and he addressed, among other documents, a lengthy "Me-

* He made the fullest use of this privilege; writing long documents on a great number of subjects in which Canadians were then interested. It was in the preparation of these papers that he performed the extraordinary feat referred to in a previous part of this work, of continuing to write six days and six nights, without ever going to bed, and only falling asleep occasionally, for a few minutes, at the desk. He ventured to predict that, unless the system of government, in Upper Canada, were ameliorated, the result must be civil war. "Against gloomy prophecies of this nature," Lord Glenelg replied, "every man conversant with public business must learn to fortify his mind," adding, that he regarded them as the usual resource of those who wish to extort from the fears of governments conclusions in favor of which no adequate reasons can be offered. Mr. Mackenzie often afterwards referred to this prediction; and so far from having intended it as a threat, took credit for it as a warning of the inevitable results of the policy pursued, contending that, if it had been heeded, all the disasters that followed would have been averted.

moir'' on the state of the Province, embracing a variety of topics. To this and some other documents Lord Goderich replied at great length, on the 8th of November, 1832, and in a tone and temper very different from those in which the local officials were accustomed to indulge.

Lord Goderich at first stated the number of names to the petitions of which Mr. Mackenzie was the bearer at twelve thousand and seventy-five; while he added that there were other petitions signed by twenty-six thousand eight hundred and fifty-four persons, "who concur in expressing their cordial satisfaction in those laws and institutions which the other sort of petitioners have impugned." At the instance of Mr. Mackenzie, Lord Goderich afterwards caused the names to be counted again, and it was found that instead of twelve thousand the number "far exceeded twenty thousand."* While combating a great many of the arguments adduced by Mr. Mackenzie, Lord Goderich yielded to his views upon several points. Hitherto no indemnity had been paid to members of the Assembly representing town constituencies. The effect, it was argued, was to confine the people in their choice of town representatives to persons who could afford to spend their time at the seat of the government during the legislative session, without a reimbursement of their expenses. Lord Goderich directed the Governor not to oppose objection to any measure that might be presented to his acceptance, "for placing

* Letter of Lord Howick to Mr. Mackenzie, January 22, 1833. Mr. Mackenzie (*Seventh Report on Grievances*) stated the number of signatures at about 24,500. Earl Ripon afterwards stated the number at 24,500.

the town and county representatives on the same footing in this respect." He agreed to place upon the same footing as Quakers other religious bodies who had a like objection to taking an oath. Another complaint Lord Goderich had anticipated. It was alleged that the local Executive distributed the public lands among their favorites without the authority of law; and His Majesty, upon the advice of the Colonial minister, interdicted the gratuitous disposal of public lands, and requested that they should be made subject to public competition, with a view "to the utter exclusion of any such favoritism as is thus deprecated." He instructed the Lieutenant Governor to adopt all constitutional means to procure a repeal of the law which disqualified British subjects from voting at elections, after their return from foreign countries; also that "His Majesty expects and requires of you neither to practice, nor to allow on the part of those who are officially subordinate to you, any interference with the right of His Majesty's subjects to the free and unbiassed choice of their representatives." In the name of His Majesty's Government, Lord Glenelg disclaimed all responsibility for the opinion attributed to Mr. Robinson, that the children of the yeomanry ought to be consigned to ignorance lest knowledge should render them independent in thought and action; and he enlarged on the advantages of popular education. "In the same spirit," he added, "His Majesty now directs me to instruct you to forward to the utmost extent of your lawful authority and influence, every scheme for the extension of education amongst the youth of the Province, and especially the

poorest and most destitute among their number, which may be suggested from any quarter, with a reasonable prospect of promoting that design." It had been the custom of the Lieutenant Governors to excuse themselves from laying a full statement of the revenue and expenditure before the Legislature, by pleading the restrictions imposed by their instructions. But Lord Goderich rendered this excuse impossible in future, by the averment that "if the Royal instructions are supposed to forbid the most unreserved communication with the House of Assembly of the manner in which the public money, from whatever source derived, is expended, such a construction is foreign to His Majesty's design." "Nothing," it was added, "is to be gained by concealment upon questions of this nature, and a degree of suspicion and prejudice is naturally excited, which, however ill-founded, often appears in the result to be incurable." Coming to the question of ecclesiastics holding seats in the Legislative Council, Lord Goderich said it was expected of the Bishop and the Archdeacon, "that they should abstain from interference in any secular matter that may be agitated at that Board." But even under this restriction, Lord Goderich added, "I have no solicitude for retaining either the Bishop or the Archdeacon on the list of Legislative Councillors; but, on the contrary, rather predisposed to the opinion that, by resigning their seats, they would best consult their own personal comfort, and the success of their designs for the spiritual good of the people." But as their seats were held for life, their resignations must be voluntary; since, it was argued, there would be no justification

for degrading them from their positions, when no specific violation of duty had been imputed to them. If the expense of elections was so inordinate as represented, the Lieutenant Governor was instructed to "signify to the Legislative bodies that it is the earnest desire of His Majesty, that every practical method should be taken for correcting what would be so great an evil, by reducing the cost "within the narrowest possible limit." In reference to an independent judiciary, so strongly opposed by Mr. Stephens, counsel to the Colonial office in 1828, Lord Goderich, anticipating the complaints now addressed to him, had directed the Lieutenant Governor to suggest the enactment of a bill for that purpose. Thus another point, urged by Mr. Mackenzie and those who acted with him, when they conceived that Judge Willis was offered up a sacrifice to the displeasure of the local Executive, had been gained.

Such are some of the concessions obtained by Mr. Mackenzie, during his visit to England, from the Imperial Government. The dispatch of Lord Goderich was intended for the public eye, and its style was eminently diplomatic. On several points he differed from Mr. Mackenzie; and sometimes he succeeded in putting his correspondent in the wrong. Unfortunately, there were reasons, as afterwards appeared, for doubting the sincerity of some of Lord Goderich's professions. In this very dispatch, he said: "With respect to the charge of showing an undue preference to preachers of religion belonging to the established churches of this country, it is so utterly at variance with the whole course of policy which it has been the object of my

dispatches to yourself to prescribe, that I cannot pause to repel it in any formal manner." On the 5th of April of the same year, he had written in reply to a private dispatch of Sir John Colborne: "I quite concur with you in thinking that the greatest benefit to the Church of England would be derived from applying a portion of the [Clergy Reserves] funds at least under the control of the Executive Government, in the building of rectories and churches; and I would add, in preparing as far as may be for profitable occupation, that moderate portion of land which you propose to assign in each township or parish for increasing the future comfort, if not the complete maintenance, of the rectors." This dispatch appears to have been marked "private," when it was written; but the seal of privacy was taken from it when it was published by order of the House of Commons, some years after.

The reception which the dispatch of Lord Goderich met at the hands of the Family Compact, shows better than almost any thing else the lengths to which a Provincial faction, spoiled by a long course of unchecked and irresponsible power, carried its insolence. The Legislative Council, instead of placing it on their journals, took the unusual course of returning it to the Governor. Mr. Mackenzie's correspondence, to which the Colonial Secretary had taken so much trouble to reply, they assured the Lieutenant Governor they viewed "with the most unqualified contempt;" and the dispatch of Lord Goderich, so far as it was a reply to that correspondence, they could not "regard as calling for the serious attention of the Legislative Council." This branch of the Legislature felt a presentiment of

its impending doom. Its equanimity was seriously disturbed by the question of its being made elective having been raised. We can now look back with perfect composure upon the party quarrels of those days; but it is impossible for any impartial observer not to be struck with the fact that the Tories of those times were the real revolutionists. A Crown-nominated chamber, crowded with placemen and dependents upon the government, pursued a course of conduct that caused a demand to be made for an Elective Council; and to this circumstance we owe a revolution in that branch of the Legislature. Whether that change will eventually prove to be for evil or for good, it is impossible yet to say.

The Legislative Assembly discussed, at great length, the question of sending back this dispatch. Attorney General Boulton thought it ill became the Colonial Secretary to "sit down and answer all this rigmarole trash;" and that "it would much less become the House to interfere with it," by giving it publicity. His whole speech was in a characteristic tone of supreme contempt. Solicitor General Hagerman objected to the printing of the papers.* Mr. Vankoughnet, though belonging to the majority of the House, met such speakers as the Attorney and the Solicitor General by their own arguments. "If," he said, "you are opposed to Mr. Mackenzie, there can be no

* After his reinstatement in office, from which his dismissal will shortly be described, Mr. Hagerman found it necessary to declare his concurrence in the principles laid down in this dispatch. On the 5th of February, 1836, he voted for a resolution pledging the House to "advance and maintain the principles of government set forth in the dispatch," "of the Right Hon. the Earl of Ripon (previously Lord Goderich) of the 8th of November, 1832."

better mode, if his papers [sent with the dispatch] contain such falsehood and fallacy as it is pretended they do, to expose him than by publishing them." The House, by a vote of twenty-one against twelve, resolved not to allow the documents accompanying the dispatch, and on which it was founded, to go upon the journals. A subsequent House gave such portions of these documents as Mr. Mackenzie selected an enduring record, in the famous *Seventh Report of the Committee on Grievances*.

The newspaper advocates of the official party went a little beyond the officials themselves. The principal of them* described the dispatch of Lord Goderich as "an elegant piece of fiddle-faddle," "full of clever stupidity and condescending impertinence."

But the end was not yet. The repeated expulsions of Mr. Mackenzie from the Legislative Assembly, in which Crown officers had borne a conspicuous and discreditable part, had attracted the attention of the Imperial Government. The constitutional objections to the proceeding had been brought before the attention of the Lieutenant Governor, for the information of the Crown law officers. The objections which the Colonial Secretary entertained to these expulsions were early communicated to Sir John Colborne; and they were fully explained, in the summer of 1832, to the Crown officers, Messrs. Hagerman and Boulton, and to others "whose official situation placed them in a confidential relation to the government."† The matter was first brought before the attention of the Colonial

* *The Courier*.

† Letter of General Rowan to Mr. Mackenzie, November 30, 1833.

office by Mr. Hume; and the authorities sent instructions to Sir John Colborne to desire the officials by whom he was surrounded not to be concerned in the repetition of so objectionable a procedure. But notwithstanding this warning, they remained contumacious. While absent, in England, Mr. Mackenzie had again been expelled from the Legislative Assembly; and the Attorney General, opposing his constitutional law to that of the Imperial Government, argued for the legality of the course pursued by the House. Both the Crown officers voted for a motion to return the dispatch and accompanying documents, and found themselves in a minority.

The Solicitor General, who had obtained an odious distinction for the virulence of his language, in urging the previous expulsion of a political opponent, had attempted to preserve his consistency by inducing a majority of the Assembly to read Lord Goderich a lecture for having, in his dispatch, noticed allegations that "rested on no better testimony than that of an individual who had been twice expelled this House, and who, in consequence of his having fabricated and reiterated libels of the grossest description, had been declared unfit and unworthy of a seat in the Assembly during the present Parliament." Of what these "libels" consisted we have already seen. The resolution of the House, that pretended to create an arbitrary disability unknown to the law, was the production of the Solicitor General, and to sustain his own act he found it necessary to undertake to snub his superiors. The dismissal of Attorney General Boul-

ton and Solicitor General Hagerman,* resolved upon in March, 1833, was the result of the discreditable

* The subjoined correspondence, which took place at York, explains the cause of these dismissals:—

“GOVERNMENT HOUSE, *April 29, 1833.*

“SIR:—I have the honor, by the direction of the Lieutenant Governor, to transmit to you the accompanying copy of a dispatch from the Secretary of State for the Colonies, in which His Excellency is interested, to inform you and the Solicitor General, that His Majesty regrets he can no longer avail himself of your services, and that you are to be relieved from the duties of your respective offices.

I have, &c.,
“[Signed] WILLIAM ROWAN.

“Henry John Boulton, Esq., &c., &c., &c.

“No. 118. [COPY.]

“DOWNING STREET, *March 6, 1833.*

“SIR:—By the accounts I have lately received of the proceedings of the Legislature of Upper Canada, I have learned that the Attorney and Solicitor General of that Province have, in their places in the Assembly, taken a part directly opposed to the avowed policy of His Majesty’s Government. As members of the Provincial Parliament, Mr. Boulton and Mr. Hagerman are, of course, bound to act upon their own view of what is most for the interest of their constituents, and of the Colony at large; but if, upon questions of great political importance, they unfortunately differ in opinion from His Majesty’s Government, it is obvious that they cannot continue to hold confidential situations in His Majesty’s service, without either betraying their duty as members of the Legislature, or bringing the sincerity of the Government into question, by their opposition to the policy which His Majesty has been advised to pursue.

“His Majesty can have no wish that Mr. Boulton and Mr. Hagerman should adopt the first of these alternatives; but, on the other hand, he cannot allow the measures of his Government to be impeded by the opposition of the Law Officers of the Crown. In order, therefore, that these gentlemen may be at full liberty, as members of the Legislature, to follow the dictates of their own judgment, I have received His Majesty’s commands to inform you that he regrets that he can no longer avail himself of their services, and that from the time of your receiving this dispatch, they are to be relieved from the duties imposed upon them in their respective offices.

“You will transmit copies of this dispatch to Mr. Boulton and Mr. Hagerman.

I have the honor, &c., &c.,

“[Signed] GODERICH.

“M. G. Sir John Colborne, K. C. B., &c., &c., &c.

“YORK, *April 29, 1833.*

“SIR:—Under the circumstances in which I find myself suddenly placed, without any previous intimation from His Majesty’s Government, and more

part they had taken in the repeated expulsion of Mr. Mackenzie from the Legislature, as well as for having, upon other questions, opposed the policy of the Imperial Government, and thus cast doubts upon the sincerity of its motives. Mr. Mackenzie had described them to Lord Goderich as "the most active men in the Province in their opposition to measures to which your Lordship and the people are friendly;" and as being backed in the Executive Council by their relatives, who, it was said, formed a majority of its members. "Without some change of men," added Mr. Mackenzie, "what are considered good measures cannot be carried into effect. A Governor would stand alone if he was to declare himself of your Lordship's opinion. All his legal advisers would be found his uncompromising opponents;" for which inconvenience, one would suppose, a remedy would be found in their

especially in the absence of the Solicitor General, who is equally affected by the measure with myself, I feel it due to him, as well as to myself, and to our respective friends, to request, that His Excellency will have the kindness to inform me for what breach of public duty His Majesty has been advised to remove us from office? I have the honor, &c.,

"[Signed]

H. J. BOULTON.

"To Lieutenant Colonel Rowan,

"Private Secretary to the Lieutenant Governor."

GOVERNMENT HOUSE, April 29, 1883

"SIR:—I have the honor to acquaint you in reply to your letter of this day, that the Lieutenant Governor understands, that the part of your political proceedings to which the dispatch of the Secretary of State particularly adverts, is that you and the Solicitor General promoted the repeated expulsion of a member of the Assembly, although the constitutional objections to that course had been conveyed to His Excellency by His Majesty's Government, and were, it is concluded, communicated by him to you.

"I have the honor, &c., &c.,

"[Signed]

WILLIAM ROWAN.

"To H. J. Boulton, Esq., &c., &c., &c."

dismissal. Mr. Mackenzie enumerated a long list of questions, on which he assured Lord Goderich the Crown officers had opposed the wishes of the King's government. Among them were: A reform of the exclusive charter of King's College; the monopoly by the Church of England of the Clergy Reserves; eligibility of Quakers for election to the Legislature; the disfranchising of British subjects for seven years after their return to Canada; the indemnity of members of the Assembly representing town constituencies; the expulsion, contrary to law, of a member of the Legislature, a second time for the same offence; the independence of the judges; and the naturalization of aliens.

The removal of Messrs. Boulton and Hagerman was made before these statements were reduced to writing. On the 7th of March, Mr. Mackenzie had a long interview with Lord Howick, under-Secretary of State for the Colonies, at the Colonial office; and it was at the request of that official that he put his complaint against the Crown officers into writing. Next day, March 8, they assumed the required form; and on the 10th, he had another interview with Lord Goderich, when, in reference to the Crown officers, the under-Secretary remarked: "They are removed." But it appears, by the date of Lord Goderich's letter, that their removal had been determined on four days before.

Mr. Jameson was appointed Attorney General, and Mr. Mackenzie said he had good reasons for believing that Dr. Rolph, whom he recommended, was made Solicitor General, but that Sir John Colborne and

Chief Justice Robinson prevented the appointment taking effect.

When the dispatch of Lord Goderich, ordering the removal of the Crown Law officers, reached Upper Canada, Mr. Hagerman had started for England, where, on the 6th of May, while going into the Colonial office, he met Mr. Mackenzie coming out. Mr. Boulton was at York, but soon followed. It is interesting to see how the official party, which had long claimed a monopoly of loyalty, bore this reverse. An article appeared in the *Upper Canada Courier*, attributed to the pen of the deprived Attorney General, containing direct threats of rebellion. The removal of these two functionaries was described as being "as high handed and arbitrary a stretch of power as has been enacted before the face of high heaven, in any of the four quarters of this nether world, for many and many a long day." "The united factions of Mackenzie, Goderich, and the Yankee Methodists" were spoken of in the most contemptuous terms. The friends of Messrs. Boulton and Hagerman it was confessed, "instead of dwelling with delight and confidence upon their connection with the glorious empire of their sires, with a determination to support that connection, as many of them have already supported it, with their fortunes or their blood, their affections are already more than half alienated from the government of that country; and in the apprehension that the same insulting and degrading course of policy towards them is likely to be continued, they already begin to 'cast about' in 'their mind's eye,' for some new state of political existence, which shall effectually put the

colony beyond the reach of injury and insult from any and every ignoramus whom the political lottery of the day may chance to elevate to the chair of the Colonial office." The Colonial Secretary, it was added, by his course of liberality, had not only "alienated the affections" of the Boulton-Hagerman school of politicians; but had "produced the feelings of resentment, and views with regard to the future," which caused them to look for "some new state of political existence."

When Mr. Mackenzie came into possession of Lord Goderich's dispatch, he at once desired Mr. Hume to withdraw his intended petition to the House of Commons; and he wrote to Canada, expressing a hope that no more petitions would be sent to England; since the Imperial Government had shown its anxiety to redress all the greivances that had been a subject of complaint. The dismissal of the Crown officers completed his satisfaction.

But affairs were soon to take another turn. Mr. Hagerman arrived in England about the time the dispatch ordering his removal reached Canada; and Mr. Boulton followed immediately on learning of his dismissal. Mr. Stanley, who succeeded Lord Goderich as Secretary for the Colonies, restored Mr. Hagerman to his official position, in the June following; within three months after his dismissal. It was afterwards officially stated that his restoration was the consequence of exculpatory evidence offered by Mr. Hagerman. Mr. Boulton at the same time obtained the office of Chief Justice of Newfoundland, where he soon embroiled himself with a large and influential

section of the population. The Imperial Government, conceiving his usefulness to be destroyed, relieved him of that charge also.* He besieged the Colonial office for a pension or other compensation; but the Imperial Government, not feeling that he was entitled to the one or the other, turned a deaf ear to his demands. He never afterwards obtained any position to wipe out the stain of that dismissal.

Mr. Mackenzie, recently overjoyed at the success he had met, in obtaining the concessions contained in Lord Goderich's dispatch, and the dismissal of law officers of the Crown in Upper Canada,† was now plunged into despair by finding a portion of that success already neutralized. He addressed to Mr. Stanley a memorial, the object of which was to procure the cancelling of Mr. Hagerman's re-appointment. It was of course not successful; and it may well be questioned whether it was judicious to tell the Colonial Secretary that the re-appointment "would be a spoke in the wheel of another violent revolution in America." After recently expressing the greatest confidence in the justice of the Imperial Government, he now bit-

* In the report of the Privy Council, deciding upon Mr. Boulton's removal from the Chief Justiceship of Newfoundland, July 5, 1838, we find the members expressing regret "to be under the necessity of reporting that we have found, in some of the transactions brought under our consideration, so much of indiscretion in the conduct of the Chief Justice, and that he has permitted himself so much to participate in the strong feelings which appear unfortunately to have influenced the different parties in the Colony, (although we do not find that his judicial decisions have been affected thereby,) that we feel it our duty to state that we think it will be inexpedient that he should be continued in the office of Chief Justice of Newfoundland."

† On the 6th of May, he wrote: "Nothing can exceed the willingness I have of late found on the part of the government here, to do the people justice, in the North American Provinces."

terly exclaimed: "I am disappointed. The prospect before us is indeed dark and gloomy."

The restoration of Mr. Hagerman seems to have been due as much, if not more, to the change that had taken place in the administration of the Colonial office,* as to the exculpatory evidence he had offered. Lord Goderich, so long as he retained the seals, continued to court interviews with Mr. Mackenzie, and to solicit information from him on the affairs of Canada. Thus on the 27th of March, 1833, Lord Howick wrote him: "I am desired by his Lordship to acquaint you that he is disposed to think that much advantage might be derived from a personal communication from yourself and Mr. Viger, either to this place, the Postmaster General, or the Secretary of the Post-office, on the questions which have been agitated in Upper and Lower Canada, respecting the Post-

* "I am sorry to observe," wrote Mr. Hume to Mr. Mackenzie, under date, 'Bryanston Square, June 24, 1833,' "by some of the proceedings of Mr. Stanley, that he is rather disposed to promote than to punish the men who have been removed from Upper Canada for improper conduct, and thereby to encourage misgovernment on the part of the public officers of that Province which Lord Goderich's late proceedings were calculated to prevent." "Indeed," Mr. Hume added, "the promotion of Mr. Boulton to a high judicial office in Newfoundland, after the declaration of Lord Goderich of his conduct and unfitness for office, I consider as an insult to the people of Upper Canada, and to every lover of good government; and it may be taken as an earnest that he will support the misgovernment which Lord Goderich had set himself against." Lord Stanley consulted Earl Ripon (previously Lord Goderich) on the appointment of Mr. Boulton to the Chief Justiceship of Newfoundland; and the latter, though he had dismissed him from the Attorney Generalship of Upper Canada, gave his entire concurrence in the new appointment. "I am bound to add," says Earl Ripon, in a letter to Mr. Boulton, dated August 20, 1835, "that though the explanations which you gave on your return to England did not, in my judgment, alter the facts upon which I had advised a change in your situation, they did affect the inference which had been drawn from those facts."

office, in those Provinces." If his known intention to leave London, in a few days, would prevent a personal interview, Mr. Mackenzie was requested to put any suggestions he might have to make into writing. He thereupon drew up a scheme of Post-office reform for the Province; supporting his recommendation by a number of documents, including several reports on the subject by committees of the Houses of Assembly, in Upper and Lower Canada. The request for an interview, on the part of Lord Goderich, was repeated; but when that gentleman was about resigning the administration of the Colonial office, he directed that the whole matter be left over for the determination of Mr. Stanley. The new Colonial minister decided to send for Mr. Stayner, Deputy Postmaster General at Quebec, to hear his explanation, before arriving at any conclusion; and Mr. Mackenzie left London the day on which Mr. Stayner arrived there. The result of these movements of Mr. Mackenzie was to bring out information regarding the Post-office revenue, which had been persistently refused to the demands of the House of Assembly. A return,* which Mr. Stayner was requested to make for

* This return formed a gauge of the circulation of the Canadian journals; though of course the entire edition did not go by mail. The amount of postage paid on the different papers in Canada, in 1830, was:

UPPER CANADA.—Christian Guardian (Sterling Money), £228; Colonial Advocate, £57; Courier, £45; Watchman, £24; Upper Canada Gazette, £18; Canadian Wesleyan, (commenced, 1831,) £18; Brockville Recorder, £16; Hamilton Free Press, (commenced, 1831,) £11; Catholic, 0; Patriot, £6; Star, 0; York Observer, £3; Kingston Chronicle, £10; Kingston Herald, £11; Brockville Gazette, £6; Niagara Gleaner, and the Herald (together), £17; St. Catharines Journal, £6; Perth Examiner, £10.

LOWER CANADA.—Quebec Gazette (thrice a week), £66; Montreal Gazette (thrice a week), £57; Montreal Herald (twice a week), and New Gazette

the information of the House of Commons, showed him to be in possession of perquisites to several times the amount of his salary. With allowances, his salary was £811 a year; and he received in addition the whole of the postage of Colonial newspapers, amounting to £1,508, and a further sum derived from postage on United States papers, a percentage on United States letters, and other perquisites not stated in the return, but estimated altogether by Mr. Mackenzie—perhaps too highly—at £2,000.

In course of a long interview had with Mr. Stanley, at the Colonial office, in the month of May, during half an hour of which an archbishop was kept waiting, Mr. Mackenzie strongly urged the necessity of giving the Canadians the control of the Post-office revenue, as well as every other arising in the Province; as mismanagement must lead to discontent and estrange the colonist from the mother country. Mr. Stanley was “exceedingly kind and friendly;” and when Mr. Mackenzie was going away asked if there were any other matter about which he wished to speak; but he made no “admission that he was favorable to a change of the system condemned.”

As has been already stated, Mr. Mackenzie successfully invoked the Royal veto against the bill, passed in his absence from the House occasioned by his

(weekly), £75; Montreal Vindicator (twice a week), £40; Montreal Minerve (twice a week), £50; Official Quebec Gazette, £56; Canadian Courant (twice a week), £46; Quebec Mercury (twice a week), £21.

Mr. Thomas Dalton, proprietor of the *Patriot* newspaper, being examined before the Grievance Committee of the House of Assembly, in 1835, stated that the official return of postage paid by him on that journal, in 1829, 1830, and 1831, was not correct. The whole amount given for the three years was £26; whereas the real amount paid was £70 or £80

second expulsion, for increasing the capital stock of the Bank of Upper Canada. This result was obtained after the objections to the measure had been stated at length to Lord Goderich, and much correspondence with the Board of Trade. Among other things, the objections stated that the bank was in the habit of lending on the security of landed property; that the act contained no provision for winding up the affairs of the corporation, in case it became bankrupt; that only one-tenth of the proposed additional stock of £100,000 was required to be paid down, and that the act did not define what would constitute a fraudulent failure. At the same time, and for similar reasons, the Kingston Bank Act was disallowed.

It may strike the reader, at this time of day, as singular that an agent and leader of a Colonial party, which claimed to be the exponents of a liberal creed and the interpreters of popular opinion, should be so ready to invoke the interference of the Imperial Government, and the Royal veto, in the local affairs of the Province. To a certain extent the seeming anomaly admits of explanation. On many questions, the local Executive, acting through the Crown-nominated and dependent Legislative Council, thwarted the wishes of the people's representatives; and, under an irresponsible local administration, there was no effective appeal possible but to the Imperial Government. But, in some cases, interference against the decisions of the popular branch of the Legislature was invoked. Appeals of this nature, unless some plain and obvious principle were violated, could hardly be justified.

The Rev. Egerton Ryerson, arriving in England

while Mr. Mackenzie was there, was through him introduced to the Colonial office. Mr. Ryerson was delegated by the Canada Conference to submit a proposition for an union between the body it represented and the English Methodists. Without entering into the merits of the case, it will be sufficient to say that the course pursued by Mr. Ryerson, while in England and after his return to Canada, gave Mr. Mackenzie great offence, and he used often, to the last years of his life, to express regret that he had done any thing to secure Mr. Ryerson admittance to the Colonial office, which, in spite of the access which Mr. Mackenzie obtained, had for nearly eighteen months shut its doors in the face of Mr. Viger, who went as the delegate of the Lower Canada Assembly. And Mr. Baldwin, who afterwards visited London, was never able to obtain an audience of the Colonial minister. Mr. Viger was in London long before Mr. Mackenzie, whom he had vainly solicited to accompany him, offering to bear the charge of his expenses.

Early in 1833, Mr. Mackenzie published in London, an octavo volume of five hundred pages, under the title of *Sketches of Canada and the United States*. It treated of a great variety of subjects, having no necessary connection with one another, and little regard was paid to method in the arrangement. The greater part of the book consisted of notes taken by the author while travelling, at different times, in the United States and Canada; and if this had been explained, the intermingling of topics would not have appeared incongruous, as it did under the arrangement adopted. Political topics were not forgotten; and there was an

agreeable seasoning of racy and remarkable anecdotes. Illinois, we learn from this source, had a model Governor, named Gilmer, whose salary was \$500 a year; and who, uniting the business of tavern-keeper to the position of chief magistrate, boarded the members of the Legislature at the rate of \$2 a week. A Brantford clergyman marries a couple in a stable; and when the ceremony is over, the bridegroom breaks the clergyman's table in revenge for the indignity put upon him. Politics form the serious part of the book. Any thing but an inviting picture is drawn of the irresponsible government with which Canada was then blessed. "The government of Upper Canada," we read, "is a despotism; a government legally existing independent of the will of the governed. Responsibility to the people from their rulers is in law," and practice too it might have been added, "merely nominal." The book is gossiping, disjointed, pleasant or censorious, according to the nature of the multiform subjects treated.

Before returning to Canada, Mr. Mackenzie revisited his native Scotland, in company with Mrs. Mackenzie, after making a tour of a large part of England. When he arrived in his native city of Dundee, he was struck with the changes that time had wrought. In a letter dated "Dundee, April 15, 1833," he says:

"After a long absence from a country, one of the most striking changes is that in the age of the people. I have been introduced to cousins I left in 'the cradle, who are now grown men and women—some of them married, some studying law, some at college, some clerks in banks, some learning mechanical occupa-

tions, and others farming. Many persons I knew as heedless youths are heads of large families, sober, staid, and prudent. Not a few I knew in active life are now sunk into the vale of years and helplessness. I have taken much pains to find out some of my old school-fellows, but how altered they are! One of the most active, spirited, intelligent youths I ever knew, is married, has a large family, and toils in poverty as laborer on a farm!"

In the churches the same changes are visible:—

"In the two Sundays spent here and in Strathmore we have regularly gone to the Kirk, sometimes to the Seceders, and sometimes to hear the established clergy. The walls of the kirks, the seats, the pulpits, many in the congregation I could remember from infancy, but the ministers were, some of them, new to me. There were enough, however, of old recollections to make these last visits to Scottish places of worship deeply interesting."

The reference to last visits was prophetic. About two years before he died, he earnestly desired to revisit Scotland, but was unable to gratify that wish.

"Here," he says in another place, still speaking of Dundee, "I was partly educated, and here I passed some of my happiest days—the days of joyous youth unencumbered with care." This was the bright side of the picture, for he had elsewhere said: "Poverty and adversity were my nurses, and in youth were want and misery my familiar friends." But it is in the nature of buoyant youth to enjoy gleams of happiness under the most discouraging circumstances. "In the midst of our relations, friends, and acquaint

ances of other years," he wrote from Dundee, "we are passing the time very agreeably."

There was one thing in Dundee that he did not like—the misery of its manufacturing population—and as his idea about large manufactories is opposed to the idea now prevalent in Canada, it may as well be given:—

"The number of mills for spinning flax into yarn in Dundee is now very numerous. The smoke of their steam-engines darkens the face of the heavens, and many a poor and miserable boy and girl eke out a wretched existence by long and incessant toil in these ever-to-be detested establishments—the graves of morality, and the parents of vice, deformity, pauperism, and crime. Long may Canada be free of all such pests! Let our domestic manufactures be those which our children can easily carry on under the eyes and in the houses and homes of their fathers and mothers."

While in Dundee Mr. Mackenzie made a settlement with such of his creditors as he had been unable to pay, when he left Scotland for Canada, in 1820, with their consent. Mr. Edward Lesslie, who was perhaps his largest Scottish creditor, had long since emigrated to Canada, where his claim, amounting to about £70, was paid.

Partly satisfied with his success, though somewhat discouraged by the restoration of Solicitor General Hagerman to office, Mr. Mackenzie left England for Canada. The impression created on his mind by the latter act was that there was little reason to hope for a favorable change in the administration of the government of Upper Canada. He left London on the 25th of June, 1833, taking passage in the *Jordeson*, and

arrived at Quebec on the 18th August, accompanied by Mrs. Mackenzie. Both in Quebec and Montreal he was pressed to accept of public dinners, but in both cases he declined, excusing himself on the ground of his long absence from Canada, and his desire to arrive at York as soon as possible.

To the last years of his life, Mr. Mackenzie was proud of the reforms which his journey to England was the means of effecting in the government of Upper Canada; and he ever continued to cherish a grateful remembrance of the aid rendered him by Mr. Ellice, Mr. Hume, and others, from whom he received assistance in the execution of his mission. Considering that he went to England in no official capacity; that he was probably opposed in the private communications of the military Governor; that attempts had been made by his enemies to disgrace him by thrice expelling him from the Legislative Assembly, it must be confessed that the success which he achieved was greater than that of any other man who ever went from Canada, in a non-official capacity, on a similar errand.

Of this journey the people's agent was left to bear the greater part of the expense. The actual disbursements were £676, of which he received £150. The balance remained unpaid all his life, and the country he had served with such disinterested devotion allowed him to go down to the grave in poverty. He despised the means by which many of his cotemporaries sought to obtain wealth, and held of greater value than stores of gold and silver a reputation unsullied by any stain of corruption

CHAPTER XVII.

Mr. Mackenzie's Third Expulsion from the Legislative Assembly—Is re-elected by Acclamation—Refusal of the Commissioners to administer the usual Oath—The House pretends that the Unanimous Election is no Election—Refuses to receive the Member Elect—Another Election by Acclamation—A Large Crowd of Electors accompany Mackenzie to the House—Excitement in the crowded Galleries—The House cleared of Strangers—Mackenzie Forcibly Ejected, while waiting to be Sworn in—A Stalwart Highlander interposes—Mackenzie declared Expelled, without being permitted to take the Oath as a Member—The Attorney General decides that the Oath must be Administered—The Commissioners apologize for not Administering it—Mr. Hume's "Baneful Domination" Letter—Produces great Excitement—The Oath taken—Mackenzie walks into the House and takes his Seat—Is Forcibly Ejected by the Sergeant-at-arms—Hissing in the Galleries—The House refuse to issue a Writ for a New Election—Mr. Stanley on the Constitutionality of one Branch of the Legislature pretending to create a Disability—Review of the Expulsions—The Proceedings Expunged from the Journals of the House—Mr. McNab votes for the Erasure.

It has already been stated that Mr. Mackenzie was expelled, for the third time, from the House of Assembly, while he was absent in England. Some detail of this proceeding, which was clearly unconstitutional, must now be given. The third session of the eleventh Provincial Parliament, of Upper Canada, commenced on the 31st October, 1833. On the 2d November, Mr. McNab, without waiting till the Governor's speech was answered, having found a seconder in Mr. J. S. Boulton, whom Mr. Mackenzie had offended by giving him in the list of pages of the

Legislative Council, moved that the entries in the journals relative to the previous expulsion be read. Solicitor General Hagerman, who was then in possession of the constitutional objections urged by the Imperial Government against these proceedings, contended that though the county of York could elect whom they pleased, the House had the right, by a simple resolution, to determine the eligibility of whomsoever they might send; and thus, in fact, to create a disability not sanctioned by law. Very little argument was required to convince the majority that this monstrous stretch of privilege was equally proper and expedient. The resolution having been carried, on a division of fifteen against eight, all that remained to be done was to prove or assert the identity of the William Lyon Mackenzie, elected for York, with the William Lyon Mackenzie previously expelled by the House, and to declare him ineligible to sit or vote in the House. Mr. McNab and his faithful seconder thought it sufficient to assert the fact and the disability. They moved a second resolution to this effect.* Mr. Boulton assured the House that the fact was "notorious, and constituted a sufficient reason for the proposed re-expulsion." The second resolution hav-

* The resolution read: "That William Lyon Mackenzie, Esq., returned to serve in this Assembly as Knight Representative for the county of York, is the same William Lyon Mackenzie mentioned in the said entries, and twice expelled this House, and declared unworthy and unfit to hold a seat therein, during the present Parliament; that by reason thereof the said William Lyon Mackenzie cannot sit or vote in this House as a member thereof." For which voted: Messrs. Attorney General, (Boulton,) G. S. Boulton, Burwell, Chisholm, D. Frazer, Jarvis, McNab, Mount, Piney, Samson, Shade, Solicitor General Hagerman, Werden, J. Willson, W. Wilson. Against it voted Messrs. Bidwell, Buell, Howard, Ketchum, McCall, Norton, Perry, Shaver.

ing been carried, on the same division as the first, the third expulsion was decreed, for no other reason than that there had been two others—a ground which Mr. McNab himself afterwards admitted to be untenable.*

Already the question of visiting the county of York with partial disfranchisement, for its persistence in sending back a member whom the House had repeatedly expelled, was raised. Mr. Samson, who had taken so prominent a part in the first expulsion, expressed the opinion, that no writ for a new election ought to issue till an act should be passed to divide the county. But the Attorney General, not wholly unmindful of the admonition of the Imperial Government, hesitated to go to this length. Still he argued that it would be the duty of the Returning Officer to refuse any votes that might be offered for Mr. Mackenzie.† Mr. Perry attempted to obtain from the House a reconsideration of the expulsion, on the

* When the question of expunging these proceedings from the Journals came before the House, on the 16th February, 1835, Mr. McNab admitted his error, and voted for the motion. "He was willing to admit," he said, "that the last words which went on to say that Mr. Mackenzie was expelled by reason of a former resolution were wrong, and we had no right to expel him on account of a former expulsion." Mr. McLean, in noticing this remark, "saw nothing in it which should influence the minds of honorable gentlemen."

† He said, "he would endeavor to show, that the causes of the disqualification of Wilkes and Mackenzie were the same. They were both expelled for insults against the House of which they had been constituted members—the difference being in their punishment, not their crime. Wilkes being declared for ever unfit to become a candidate for the seat, the other only for the present Parliament. Unless a candidate be ineligible, he cannot be prevented from sitting in that House; but being ineligible, 't is the duty of the Returning Officer to refuse his votes and not receive any for him. He justified the proceedings of the House in this case, on the grounds of custom and expediency, and would run the risk of any abuse of such precedent, whether the case should happen on the side which he espoused or on the other."

ground that it had been affirmed when a large number of the members were absent; but his proposition was supported by only ten votes, in a House of twenty-nine members.

In the absence of Mr. Mackenzie, his friends brought his claims before the electors. The electors considered their privileges invaded; and so strong was the feeling that no one ventured to come forward and declare himself the candidate of the official party. Mr. Mackenzie was therefore unanimously re-elected.

The Returning Officer had not acted upon the hint of the Attorney General, and assumed that Mr. Mackenzie was incapable of being elected. There was no opportunity of refusing votes, for the election took place by acclamation; but if the Attorney General was right in assuming that any votes given to Mr. Mackenzie would be thrown away, he was incapable of being returned by acclamation, because he would have been incapable of election; and, on this view of the matter, the Returning Officer should have reported that no election had taken place. Mr. Fitzgibbon refused to administer to the member elect the usual oaths. This time there was to be no expulsion. The matter had assumed a new shape. It was contended that there had been no election. Mr. Bidwell brought the question to a vote. He moved, in substance, that Mr. Mackenzie had been duly elected for the county of York; that he was under no legal disability, and was by the law and constitution a member of the House; and that, upon taking the oath, which the law made it the duty of the commissioner to administer, he would have a right to sit and vote in the

House. The motion was rejected on a vote of eighteen against seven.* The effect of this vote was to punish and disfranchise the county of York for having presumed to elect a candidate who was under no legal disability. Mr. McNab admitted Mr. Mackenzie's eligibility for election; but contended that, though the county of York might elect, the House had the right to refuse to receive the member elected. Mr. McNab had taken up an impossible position. He had voted that Mr. Mackenzie was incapable of holding a seat in the House during that Parliament; though he held that the electors had a right to elect him. When it was notorious that they would elect nobody else, the resolution of the House not to receive him could only keep up a perpetual contest, the practical effect of which was to disfranchise the county. Mr. Perry asked the House to affirm a principle, which is now held by the best authorities to embody sound constitutional law: that the House had no right without the concurrence of the other branches of the government, to disfranchise any elector, or to disqualify any person from being elected, when such elector or person elected is under no legal disability; but he was able to command only thirteen votes in a House of thirty-two members. On a vote of eighteen against fifteen, the House then repeated its resolution, that Mr. Mackenzie should not be permitted to take a seat or vote as a member during the session; after which,

* The division was: Yeas—Messrs. Bidwell, Campbell, Duncombe, Horner, Howard, Ketchum, Shaver. Nays—Berezy, Boulton, Burwell, Chisholm, Elliott, A. Frazer, D. Frazer, Jarvis, Jones, McNab, McNeillidge, Morris, Robinson, Snade, Thompson, Werden, John Willson, W. Wilson.

a motion ordering a writ for a new election was carried by a bare majority of one; the minority being of opinion that Mr. Mackenzie, having been duly elected, was qualified to serve, and that in reality there was no vacancy.

Mr. Mackenzie went back to his constituents on the 16th of December, 1833, and was once more re-elected without opposition. It deserves to be noticed that, in his address to the electors, he declared "the grand defect in the Colonial Constitution" to be "the want of responsible government." The election being over, a series of resolutions were put to the meeting and carried unanimously. Among other things, they called for an inquiry into the conduct of Lieutenant Governor Sir John Colborne, whom it charged with interfering with the constitutional rights of the people. The intention of a large body of the electors to accompany Mr. Mackenzie to the House of Assembly, at York, being known, he entreated them to abstain from any acts of violence. They reached the House of Assembly soon after midday. The galleries were soon filled; some were admitted below the bar, and others remained in the lobbies, for want of room inside. The result was awaited with great anxiety by the large body of electors, who were becoming indignant at being defrauded of the franchise, by the repeated expulsion of one of their members from the House, or the refusal of the majority to receive him. Mr. Perry rose to present a petition against a repetition of the proceedings by which the county of York had been deprived of half its legal representation. Several members spoke against receiving it. Mr. McNab, in

opposing its reception, was hissed from the gallery. It was now proposed to clear the gallery of the crowd of strangers with which it was packed; and when the operation had been partially completed, the Sergeant-at-arms went up to Mr. Mackenzie, who was waiting below the bar to be sworn in, and ordered him to leave. He replied that, as had been stated by Mr. Perry, he had been unanimously elected by the county of York; and that the writ had been returned to the Clerk of the Crown in Chancery, who was present in the House. If leave were given, he would prove that he had a right there. The Sergeant-at-arms—Mr. McNab, father of the member—then seized him by the collar, in a violent manner, saying, while he dragged him towards the door, “You shall go out.” A brawny Highlander, one of the four or five who still remained with Mr. Mackenzie, interposed either with a blow at the officer of the House, or held him back. As soon as the door was opened, the crowd, who had descended from the gallery to the lobby, rushed forward; but before they could get in, the door was bolted and barricaded with benches, members and officers pressing towards the door to prevent it being forced. The galleries, which had only been partially cleared, were the scene of great confusion. The excitement was extreme, and the business of the House was brought to a stand. Many of the members were in a state of violent agitation. Several of them went out, and harangued the people. The question of sending to prison the stalwart Highlander, who had interfered with the Sergeant-at-arms, was raised; but a bystander remarked that “he feared it would be no easy matter

to find the jail, on such an errand." That official now returned to Mr. Mackenzie, asking him to give proof of his election. This having been done, the officer of the House informed the Speaker, from whom he received orders to clear the space below the bar of strangers, that Mr. Mackenzie claimed to remain as a member. The Speaker urged the commissioners to refuse to administer the oaths, and afterwards decided that Mr. Mackenzie was a stranger because he had not taken them. Mr. McNab (the member) said that to allow Mr. Mackenzie to remain below the bar would be a proof of pusillanimity in the House, in issuing an order which they had not the courage to enforce. Mr. Burwell said the scene recalled the tumult of the French National Convention. It was not till after a long debate, that the Speaker decided that Mr. Mackenzie was a stranger, and not entitled to remain below the bar.

The hissing that took place in the gallery was unjustifiable; it could but tend to put a stop to deliberation. Such a procedure is almost invariably the precursor of a revolutionary movement. But let us apportion the degree of censure due to the various parties. The electors of York had been defrauded of their elective rights, by the proceedings of the House, some of which were clearly unconstitutional. The endurance of the electors was well nigh exhausted; and while we cannot justify their interference with the deliberations of the House, by expressing their disapprobation in hisses, we must take into account the repeated provocations they had received. The conduct of the majority was revolutionary.

This will be a memorable day in Canada. There were among the electors some who argued that, if their member was forcibly ejected from the House, they too would be justified in resorting to force in defence of their violated rights. They had, they said to one another, some old rusty muskets which they might furnish up for future use, if this sort of thing was to be continued.

Next day, Mr. Morris, seconded by Mr. Donald Fraser, moved that Mr. Mackenzie having libelled the House on the 14th of December, 1831—more than two years before—and made no reparation, a previous resolution declaring him unworthy of a seat therein ought to be adhered to; to which Mr. McNab added, by way of amendment, “and therefore the said William Lyon Mackenzie, again elected and returned to represent the county of York in this present Parliament, is hereby expelled.”* The resolution, as amend-

* Here is the official record: “Mr. Morris, seconded by Mr. Donald Fraser, moves that it be *Resolved*, That this House on the 14th day of December, 1831, in consequence of a false and scandalous libel published against a majority of its members by William Lyon Mackenzie, Esq., one of the members then representing the county of York, of which he avowed himself the author and publisher, was induced to expel him, the said William Lyon Mackenzie, from this House; that notwithstanding the gross and scandalous nature of the said libel, this House, in the hope that the said William Lyon Mackenzie would abstain from a continuance of the offensive conduct for which he had been expelled, permitted him to take his seat on the 3rd day of January following as a member for the county of York, after being re-elected; that, in this hope, so important to the deliberate transaction of public business, so essential to the respectability of the Legislature and peace of the country, a few days’ experience convinced this House there was so little reason to rely, that on the 7th day of the same month of January it was by a large majority again deemed necessary to expel the said William Lyon Mackenzie for a repetition and aggravated reiteration of the aforesaid false and scandalous libel; and in doing so, this House, in order to support the dignity which ought to belong to a Legislative body, con-

ed, was carried by a very narrow majority, the vote being twenty-two against eighteen. How a person, who was not a member, and who was not permitted to take the oaths or his seat, or even to be heard in his defence, could be expelled, is an enigma which it would have puzzled the actors in the affair to explain.

On the evening of the 17th December, Mr. Mackenzie addressed a communication to the Lieutenant Governor, stating what had occurred, and requesting to be permitted to take the oath before His Excellency, according to a provision of the constitutional Act; or that some other prompt and immediate relief might be afforded to him and his constituents. The question was referred to Attorney General Jameson, who reported that Mr. Mackenzie was entitled to take the oath, and that no person commissioned by the Go-

sidered it just and proper to declare the said William Lyon Mackenzie unfit and unworthy to hold a seat in this House during the continuance of the present Parliament; that as the said William Lyon Mackenzie has never made reparation to this House for the gross injuries he has attempted to inflict on its character and proceedings, there is no reason to depart from the Resolution of the said 7th day of January, 1832. Mr. McNab, seconded by Mr. Robinson (brother to the Chief Justice), moves in amendment, That the following words be added to the original resolution, 'and therefore he, the said William Lyon Mackenzie, again elected and returned to represent the county of York in this present Parliament, is hereby expelled.' Several motions to adjourn the debate were negatived, the House refusing to give Mr. Ketchum an opportunity to reserve his objections till the following day, although it was then near eleven o'clock at night. The House then divided, and Mr. Morris's resolution, with McNab's amendment, was adopted by the following vote:

"YEAS—Messrs. Berczy, Boulton, Brown, Burwell, Chisholm, Crooks, Elliott, Fraser, A., Fraser, R. D., Jarvis, Jones, McNab, McNeillage, Merrit, Morris, Robinson, Samson, Thomson, Vankoughnet, Werden, Willson, J., and Willson, W.—22."

"NAYS—Messrs. Bidwell, Buell, Campbell, Clark, Cook, Duncombe, Fraser, D. Hornor, Howard, Ketchum, Lyon, McDonald, A., Norton, Perry, Randal, Roblin, Shaver and White—18."

vernor had a right to refuse, since his office was ministerial and not judicial. The Governor therefore directed Mr. Beikie, Clerk of the Executive Council, to administer the oath. Mr. Mackenzie did not go before the commissioner, Mr. Beikie, for this purpose till the 11th February; feeling no doubt that, as the House had declared him expelled, he would not be allowed to take his seat. He finally made the trial at the urgent request of his friends. But we must here pause to notice some events, and their consequence, that occurred in the interval.

The majority of the House were more than half afraid of the possible consequence of their own act. They were disturbed by a rumor that the Governor was in possession of instructions that would compel him to remonstrate with the House; and unless they changed their course, to resort to a dissolution. But the Governor was completely under the control of his irresponsible advisers. He firmly believed that the official party was the sole depositary of loyalty in the Province; and that the opposition, whose only object had been the reform of abuses, wished to deprive England of her remaining American possessions. The course he pursued tended to the realization of his fears, unfounded as they were when first entertained. In reply to representations made to him at a personal interview, by Messrs. Mackenzie, Mackintosh, Ketchum, and Shepard, the Lieutenant Governor, through Mr. Secretary Rowan, under date, December 27, 1833, recommended "that Mr. Mackenzie may offer to make the reparation which the House, by their late resolution seem to expect from him." A piece of advice

that was very unlikely to be taken. From the position taken by the Imperial Government, Sir John Colborne felt it necessary to say, that on these questions of privilege, the House had decided "uninfluenced by the Executive Government;" an assurance the value of which could best be determined by an observation of the course taken by such of the irresponsible advisers of the Governor as had seats in the House. In their interview with Sir John Colborne, Mr. Mackenzie and the three gentlemen who accompanied him, had complained of the refusal of Mr. S. P. Jarvis and Mr. Joseph Fitzgibbon, commissioners appointed to administer the oaths to members of the Assembly; and along with Mr. Secretary Rowan's letter their apology was sent. Mr. Jarvis pretended that he was at first prevented from reporting Mr. Mackenzie's return, by the question of order that arose; and that when he did so, "the Speaker declined leaving the chair till the question of order had terminated;" that he "did not leave the House till a few minutes before six o'clock," and that no second application was made to him on the subject. Mr. Mackenzie had been forcibly ejected from below the bar, in the meantime. Fitzgibbon said he would have administered the oath, if he had been asked, before the expulsion took place.

Petitions breathing defiance began to reach the Lieutenant Governor. "Loyal as the inhabitants of this country unquestionably are," said a petition from Whitby, "your petitioners will not disguise from your Excellency, that they consider longer endurance under their present oppressions, neither a virtue nor a duty. For though all mankind admit the claims of

good government to the respect and support of the governed, yet very different considerations are due to that which is regardless of public interests, wars with public inclinations and feelings, and only aids or connives at oppression." From Newmarket came a petition praying the House, since they would not allow the member so often elected to sit, in its wisdom to "nominate four fit, proper, competent and discreet persons,* to represent the county of York, who may be elected, pursuant to your choice, next general election." When Mr. Ketchum discovered that this petition was a burlesque upon the House, he withdrew it. The Governor's reply to the deputation, already noticed, was criticized in petitions presented to him; the electors complained that laws were passed without their consent, and a dissolution of the Legislature was prayed for. A town meeting, in King, refused to appoint an assessor and collector of taxes, on the ground that they had no right to pay taxes, when the Assembly robbed them of half their representation.

Mr. Hume, removed from the influence of local feelings and prejudices, wrote from London to Mr. Mackenzie, giving his opinion that the events of the 16th and 17th of December—Mr. Mackenzie's unanimous re-election and his forcible ejection and re-expulsion—would hasten the crisis that would terminate in the independence of Canada.† But he was smart-

* An act had been passed dividing the county of York into four Ridings, each of which was, at the next general election, to send a member.

† This letter is dated "Bryanston Square, 29th of March, 1834," and contains some very strong language, "Your triumphant election," Mr. Hume says, "on the 16th, and ejection from the Assembly on the 17th, must hasten the crisis which is fast approaching in the affairs of Canada, and which will

ing under a sense of injury, in consequence of some attack made upon him by the Rev. Egerton Ryerson ;

terminate in independence and freedom from the baneful domination of the mother country, and the tyrannical conduct of a small and despicable faction in the colony." "I confidently trust," he added, "that the high-minded people of Canada will not, in these days, be overawed or cheated of their rights and liberties by such men as Mr. Stanley and the Colonial compact. Your cause is *their* cause; your defeat would be *their* subjugation. Go on, therefore, I beseech you, and success—glorious success—must crown your joint efforts." The subject of this letter was brought up in the City Council of Toronto, (late York,) when Dr. Morrison moved an amendment to a resolution proposed by Alderman Dennison: "That Mr. Hume justly regards such conduct [the repeated expulsions of Mr. Mackenzie from the House] on the part of the Legislature, countenanced as it was by the Crown officers, and other Executive functionaries in the Assembly, and unredressed by the Royal prerogative, as evidence of baneful and tyrannical domination, in which conduct it is both painful and injurious to find the Provincial officials systematically upheld by the minister at home against the people." Mr. Hume accepted this as the true explanation of his views. Proceeding to another topic, Mr. Hume said: "I have lately seen, with mingled feelings of pity and contempt, the attacks made by Mr. [Rev. Egerton] Ryerson against my public and private conduct." "I never," he said, "knew a more worthless hypocrite or so base a man as Mr. Ryerson has proved himself to be. I feel pity for him, for the sake of our common nature, to think that such human depravity should exist in an enlightened society; and I fear the pangs of a guilty and self-condemning conscience must make his venal and corrupt breast a second hell, and ere long render his existence truly miserable." Mr. Hume must have been severely stung by the attacks made upon him or he could not have brought himself to employ such terms of censure as these. Mr. Hume felt the more hurt because he said he had paid a great deal of attention to Mr. Ryerson when the latter was in England; regarding him as the "representative of a good cause and a distant people," who were much in need of some influence being exerted in their favor in London. After this letter had been made a subject of discussion in the City Council, Mr. Hume wrote another letter to Mr. Mackenzie, bearing date 14th of June, 1834, in which he says of the oligarchical system that then existed in Upper Canada: "To submit quietly to such domination would be an acknowledgment of servitude of the most odious nature, as unworthy of the people of Canada, as disgraceful and injurious to Great Britain." Congratulating Mr. Mackenzie on his election as first Mayor of Toronto, he said: "It is cheering to see the five times rejected by the selfish faction, elected the first Justice of the Peace by the people, and placed in the post of authority and honor."

and his letter is at once intemperate and indiscreet.* In speaking of the "baneful domination" of the mother country as a thing for Canada to rid itself of as soon as possible, he failed to make the proper distinction between the Colonial Oligarchy and the Imperial Government; though the latter, with every desire to do justice, upheld a false system, and was not unfrequently misled by the prejudiced and interested statements of the knot of permanent and irresponsible officials by whom the Lieutenant Governor was surrounded.

The Methodist Conference, probably moved by Mr. Hume's attack on Mr. Ryerson, on the 20th of June, 1834, while in session at Kingston, unanimously adopted an address to Sir John Colborne, in which they "disclaim, with strong feelings of indignation, the recent avowal of revolutionary principles and purposes."†

* The language at which Mr. Hume took offence stated that he had "no influence as a religious man; has never been known to promote any religious measure, or object, as such, and has opposed every measure for the better observance of the Sabbath, and even introduced a motion to defeat the bill for the abolition of Colonial slavery."

† This address was signed by Gordon Grindrod, President, and James Richardson, Secretary. In September, 1831, Lieutenant Governor Maitland had replied in the most offensive terms to an address of this same body of Methodists. He told them that their preachers, whether from the United States or any other foreign country, would, "*while they act honestly*, and respect British institutions," enjoy the same protection as other Americans who had sought an asylum in the country. "But," he added, "you will readily admit, that the sober-minded of the Province are disgusted with the accounts of the disgraceful dissensions of the Episcopal Methodist Church and its separatists, recriminating memorials, and the warfare of one church upon another." With regard to the system of public education, of which the Methodists had complained, Sir John told them that it "would not be abandoned to suit the limited views of leaders of societies, who perhaps have neither experience nor judgment to appreciate the value or advantages of a liberal education."

The Colonial oligarchs, and their supporters in the Assembly, were just as ready to complain of the domination exercised by Downing Street over the local affairs of the Province as Mr. Hume himself, when their interests were interfered with. The disallowance of the bank charter acts, to which reference had already been made, almost created a rebellion among the Tories of Upper Canada. In March, 1834, the House of Assembly passed an address to the King, protesting, in the most energetic terms, against the exercise of the Royal veto* in this case; laying down the general

* The following, which contains the substance of the address, will sufficiently show its spirit:—"We, Your Majesty's most dutiful and loyal subjects, the Commons House of Assembly of Upper Canada in Provincial Parliament assembled, in full assurance of Your Majesty's earnest desire to promote the welfare of your people, beg leave humbly to address ourselves to Your Majesty upon a matter of the deepest interest to your faithful subjects in this Province. * * * We humbly represent, that, although the disallowance of these acts may appear to be authorized by the letter of the statute of the British Parliament, * * * yet it is contrary to its spirit and meaning, and to the principles of a free government. We believe that this provision was made to remedy the evil which might be occasioned by the Royal assent being given in the Colony to a Provincial Act that should be found incompatible with the rights and interests of other portions of the Empire, but we cannot think it was intended to give a power of interference with our internal affairs. Against such an interference we respectfully, but plainly and solemnly protest, as inconsistent with those sacred constitutional principles which are essential to a free government; since it is manifest, that if Your Majesty's ministers, at a distance of more than four thousand miles, and not at all controllable by, or accountable to, Your Majesty's subjects here, and possessing necessarily a slight and imperfect knowledge of the circumstances of this country, the wants, and habits, and feelings of the inhabitants, and the mode of transacting business among us, can dictate a different course, in relation to measures affecting ourselves only, from that which the people by their representatives, and with the concurrence of the other branches of the Provincial Legislature, have chosen, we are reduced to a state of mere dependence upon the will and pleasure of a ministry that are irresponsible to us, and beyond the reach and operation of the public opinion of the Province; and no one can rely upon our Provincial laws, although they may be constitutionally and deliberately formed, but the most unhappy uncertainty

principle that, in all local affairs, the Provincial Legislature ought to be supreme. To have extorted assent to such a declaration from a section of the Tories,* was no small gain. There seems to be no question that they did not comprehend the full force of a declaration that was to make the Legislature supreme in local matters. The truth is, the popular branch of the Legislature was a complete nullity. It had no control over the Executive Council; and the second Chamber constantly interposed between the representatives of the people and the Family Compact of officials, to

and want of confidence will prevail and extend their disastrous influence over all our business transactions. We respectfully claim the same right, in behalf of Your Majesty's subjects in this Province, to be consulted in the making of laws for their peace, welfare, and good government, which our fellow subjects in Great Britain enjoy, in respect to laws to which their obedience is required; and although, from the necessity of the case, power must be granted to the Head of the Empire of preventing Colonial laws being adopted and enforced which are incompatible with treaties between Your Majesty's Government and foreign States, or with the just rights of any other of Your Majesty's Colonies; yet, with these exceptions, we humbly submit that no laws ought to be, or rightfully can be, dictated to, or imposed upon, the people of this Province, to which they do not freely give their consent, through the constitutional medium of representatives chosen by and accountable to themselves. The force of our humble and dutiful remonstrance against the principle of an interference of Your Majesty's ministers with our internal affairs, we are not willing to diminish, by insisting upon the inconveniences and evils likely to follow from the exercise of power which, &c. * * *

"We, therefore, respectfully and humbly pray that Your Majesty, taking these matters into your favorable consideration, will be graciously pleased not to disallow these Provincial Acts, and not to permit Your Majesty's ministers to interfere with our internal affairs; but to leave the same entirely to the discretion and control of the Legislature of this Province."

* In a House of thirty members, six voted against that part of the Address given in the previous note, five of whom were Tories. It was moved by Mr. Bidwell, and seconded by Mr. Perry, in the shape of an amendment to another address that had been proposed. Nine Tories voted for the amendment; and thus affirmed principles mainly sound in themselves, but with which the whole practice of their lives was in contradiction.

whose recommendations its members owed their Legislative position. The Tories in the House went the length of complaining of the interference of the ministry, in England, with its resolves, on the ground that it was not responsible to that Chamber; though they steadfastly supported a local ministry that could, at any time, set the Assembly at defiance, with impunity. Without intending it, the upholders of the oligarchy proved the necessity of having a responsible government in the Province.

The House, as we have seen, passed a resolution expelling Mr. Mackenzie, on the 17th of December, 1833. On the 11th of February, no new writ had been issued for a new election; and Mr. Mackenzie, at the request of his friends, went before the Clerk of the Executive Council and took the oath prescribed for members of the Legislature. The Clerk acted on the authority of the Governor's instructions, backed by the opinion of Attorney General Jameson. At three o'clock on the same day, Mr. Mackenzie walked into the House of Assembly, and took his seat among the members. The House was in Committee of the whole, Mr. Donald Macdonald in the Chair. He had not been long there when he received a visit from Mr. McNab, Sergeant-at-arms, who informed him that he was a stranger, and must retire. Mr. Mackenzie replied that he was a member of the House, legally elected and duly sworn; and he produced an attested copy of the oath. He was, he said, charged with no offence or irregularity that could disqualify him for sitting and voting. Before going to the House, he had given public notice that he should not leave his

seat unless violence were used; and he now told the Sergeant-at-arms that, if he interfered, it would be at his peril. This officer replied that he must use force. Mr. Mackenzie was three times forcibly taken from his seat; and when he appealed to the Speaker for protection, that functionary replied that it was not possible for the Sergeant-at-arms to have mistaken his duty. Mr. McNab, the member, said he was ready to vote to send Mr. Mackenzie to jail. Mr. Merritt, in a passion, said he ought to be put out of the House, and two men stationed at the door to prevent his return. A resolution in favor of his taking his seat was lost on a vote of twenty-one against fifteen. Mr. McNab attacked the Lieutenant Governor for having instructed the Clerk of the Executive Council to administer the oath to Mr. Mackenzie; saying he "had interfered very improperly, and in a manner no way creditable to himself; and that he might find, like the Vicar of Bray, by taking both sides of the question, he might fall through between." Mr. W. Robinson said Mr. Mackenzie would not have gone to the House, if he had not had the Governor's sanction in his pocket; and that the conduct of the head of the government was entirely unjustifiable.

While these proceedings were going on, there was a dense crowd in the gallery, whose general conduct was orderly and decorous; Mr. Mackenzie having previously cautioned them to remain "quiet and passive spectators." Once there was a hiss from the gallery. It was in response to a remark of Mr. Robinson that Mr. Mackenzie ought to be punished with imprisonment and without being heard in his defence.

In giving his reasons for again making an attempt to take his seat, Mr. Mackenzie says he did so because he believed it to be his duty. In reference to the threats of imprisonment, he said: "I greatly desire personal liberty; but the fear of a prison, or of poverty, or of danger to life or limb, will not, I trust, make a coward of me in a good cause."

A few days after these arbitrary proceedings, on the part of the majority of the House, had taken place, Mr. Duncombe made a motion which was intended to bring about a new election for the county of York, by a side wind. Mr. Mackenzie's friends did not admit that his seat was legally vacant; and therefore they could not vote for the issuing of a writ for a new election. Mr. Duncombe's resolution instructed the Speaker to take the necessary steps to have any vacancy in the House forthwith supplied; but it was rejected, as was also a motion proposed by Mr. McNab for issuing a writ for the election of a member for York, in the place of Mr. Mackenzie expelled.*

* The vote for the issue of a writ for a new election would have been to assume that the expulsion had been legal, and had created a vacancy. A case in point occurred about this time, in Lower Canada. The Lower Canada House of Assembly had assumed to disqualify Mr. Mondelet by resolution, on the occasion of his having taken office. The Governor-in-Chief, Lord Aylmer, refused to affix his name to a new writ for the election of a member for the county of Montreal, in the place of Mr. Mondelet. Mr. Stanley in a dispatch, communicated to the House on the 13th of January, 1834, expresses his entire approval of the conduct of the Governor. In that dispatch, the Colonial Secretary said the House of Commons, by their knowledge of the British constitution, and of what was due to the privileges of the other branch of the Legislature, had been preserved "from the fatal error of arrogating to themselves the monstrous right of giving to their resolutions the force of law." He added that the House of Commons "neither possesses, nor has ever claimed to possess, any right, authority, or power without the consent of the Crown and the

To have ordered a new election would only have been to prepare the way for a fresh outrage in the shape of another expulsion. One result of these various proceedings against Mr. Mackenzie, was to deprive the county of York of one of its two members, during the term of nearly a whole Parliament.

Though some of the actors in this drama are still living, we are sufficiently removed from the time in which the events occurred, to be able to take a view of them unclouded by passion or prejudice. The recital of the facts will often create a feeling of honest indignation; but this feeling will be quite as strong in the mind of the reader fifty years hence. A brief review of the whole proceedings will give the best idea of the spirit in which they were conducted. At first, an attempt was made to expel the obnoxious member, because he had, at his own cost, distributed copies of the Journals of the House, without note or comment, unaccompanied by the appendix. A majority was ashamed to act upon so flimsy a pretext; but one object was gained: Mr. Mackenzie did not again tender for the printing of the Journals, and the work was a godsend to the partisans of the government. Next, a pretended libel, published in a newspaper, was made a ground of expulsion, and acted upon. Neither of the articles complained of was half so severe as arti-

House of Peers, to make laws relating either to the qualification or disqualification of electors or candidates, or rather to effect their object by resolutions only." And should the Speaker be called upon, in the exercise of his ministerial capacity, to issue a warrant for a new election, "in consequence of a member being unseated by an illegal resolution, the duty would devolve upon the Lord Chancellor to take notice of the cause of vacancy, as recited in the warrant, and on the ground of illegality to refuse to affix the great seal to the new writ."

cles that are now daily published without exciting attention. Then a new libel was discovered, and made the cause of a second expulsion. This time the House stretched the power of privilege to the monstrous extent of creating a disqualification unknown to the law. The third time, the House contented itself with giving force to this declared disability. Next time, a unanimous re-election was declared to be no election at all; though the Returning Officer had returned Mr. Mackenzie as duly elected, and no candidate had appeared to oppose him. The fifth time, he was declared expelled, though not allowed by the House to take the oaths or his seat; and the same majority that now expelled him had declared, a short time before, that he was not and could not be elected; they having assumed that he was incapable of being elected during that Parliament. This last time he was, at first, forcibly ejected from the space below the bar, on a motion to clear the House of strangers; because not having taken the oaths, which the Speaker urged the commissioners not to administer, he must be treated as a stranger; and then, after he had taken the oath, before a commissioner, instructed by the Lieutenant Governor, on the advice of the Attorney General, to administer it, he was again forcibly dragged from his seat by the Sergeant-at-arms, condemned to silence under the outrage, and threatened with imprisonment. The frequency and the facility with which the majority shifted their ground, showed that all they wanted was a colorable pretext for carrying out a foregone conclusion, to rid themselves of the presence of an opponent who gave them so much trouble.

As in the case of Wilkes, who was expelled from the House of Commons, the whole of the proceedings relating to these expulsions, were expunged from the Journals of the Assembly; being declared subversive of the rights of the whole body of electors of Upper Canada.* This was done in the first session

* Here is the resolution: "Mr. Mackenzie, seconded by Mr. McIntosh, moves, That it be resolved, that all the declarations, orders, and resolutions of this House, respecting the several elections of William Lyon Mackenzie, Esq., into Parliament for the county of York, as void elections, and the incapacity of William Lyon Mackenzie, Esq., to serve in the said Parliament, and for his expulsions therefrom, and disqualification by the mere force of a former vote or votes of expulsion, as also all orders, declarations, and resolutions, denying that the elections of William Lyon Mackenzie, Esq., were good, true, and valid, or affirming that the House having expelled and declared him unfit and unworthy to take a seat therein during the said Parliament, and that being convinced of the propriety of such expulsion and declaration, would not allow him to sit and vote, be expunged from the Journals of this House, as being subversive of the rights of the whole body of electors of this Province. Which was carried on a vote of twenty-eight against seven."

Mr. Mackenzie was not the first member of the Upper Canada Assembly who had been expelled for breach of privilege consisting of alleged libel. On the 4th of March, 1817, Mr. Durand, member for Wentworth, was declared guilty of a false, scandalous, and malicious libel, and ordered to be sent to the York jail during the session. Having placed himself out of the reach of the officer of that House; and for this "high contempt" of the authority of the House, and "flagrant breach" of its privileges, he was expelled. The libel arose out of an irregular suspension of the *Habeas Corpus* Act, by Sir Gordon Drummond, administrator of the Government of Upper Canada, during the latter part of the war of 1812. This act had been suspended during the former part of the war; and the House having refused to renew the suspension, Sir Gordon Drummond took it upon himself to declare the suspension by proclamation. In a newspaper called the *St. David's Spectator*, Mr. Durand alleged that great atrocities had been committed both by the regular troops and the militia, at the time when the administrator of the government assumed the exercise of a disputed power. The Assembly, in 1815, asked Sir Gordon Drummond for any papers he might have explaining the act; when he replied, in a style too much in fashion in those days among persons having authority in Colonial governments: "All measures of that nature were adopted by me, as commanding His Majesty's forces, and resulted from the exercise of my discretion." Mr. Durand's libel on the House appears to have consisted of a

of the next Provincial Parliament, on the 16th of July, 1835. Mr. McNab voted to expunge his own resolutions, and frankly admitted that the House was wrong in grounding its third expulsion on the fact of the second. He had copied the formula of the resolution, on that occasion, from one framed for the case of Mr. Christie, from the Journals of the Lower Canada Assembly. Among Mr. Mackenzie's notes I find a statement that Mr. Hagerman confessed, on this occasion, that he had, from the first, thought the whole of these expulsions inexpedient; but that, having been overruled by those with whom he acted, he had publicly supported them. But I find nothing of the kind in Mr. Hagerman's published speech. He did not defend the expulsions, it is true; he declared he would not stoop to inquire whether this act was right or wrong; it was sufficient for him that the House had done it. He objected to one Assembly, acting judicially, reversing the decision of a previous Assembly. From first to last, the proceedings against Mr. Mackenzie were conceived in a party spirit, and carried by party votes. No worse description or condemnation of them could be given; seeing that they were in their nature judicial

statement of the alleged condition of things in the House, when the renewal of the *Habeas Corpus* suspension was proposed. "The House at this time," he said, "seemed agitated by prospects before them according to their various feelings—the tide of temptation, at this crisis, ran high—the terrors of the bill were on one hand, good contracts were on the other; and of course the man who opposed the President's will was for ever shut out."

CHAPTER XVIII.

York changed to Toronto—Was it the Site of the Indian Toronto?—Mr. Mackenzie elected First Mayor of the City—Mayor and Corporation borrow £1000 for Municipal Purposes on their Individual Responsibility—3*d.* in the £1 considered a monstrously oppressive Tax—Public Meeting called by the Mayor to justify the 3*d.* Tax—Is adjourned and a Frightful Accident occurs by the giving way of a Balcony—The Cholera of 1834—How the Mayor braved Disease and Death—Is attacked with Cholera—Formation of the Canadian Alliance Society—Loss of his Infant Son—Resolution to abandon the Press—Mackenzie as a Journalist.

ON the 6th March, 1834, the town of York had its limits extended, and it was erected into an incorporated city, under the name of Toronto.* On the 15th

* Toronto is an Indian name, but that the Indians gave that name to the place now called Toronto is more than doubtful. All the evidence I have seen is against the supposition. Upon the early French maps the present site of Toronto was designated Teiaigon or Teiaiaigon. In a *Carte du Canada ou de la Nouvelle France*, by Del Isle, of the French Academy of Sciences, and first Geographer of the King, published at Paris, in 1803, it is called Teiaiaigon. In the *Carte Generale du Canada*, of Baron Lahonton, in his *Nouveau Voyage dans L'Amerique Septentrionale*, written at different times from 1683 to 1692, and published at the Hague, Penetanguishine Bay [mouth of the Severn] is set down as *Baye de Toronto*; and in another work, *Memoires de L'Amerique Septentrionale*, the same traveller says of Lake Huron: "On voit au nord-est de cette Rivière la Baye de Toronto qui a vingt ou vingt cinq lieues de longueur et quinze d'ouverture, il se décharge une Rivière que sort du petit lac du même nom, [Lake Simcoe,] formant plusieurs cataractes impraticables, tout en descendant qu'en montant. De sa source on peut aller dans le lac de Frontenac [Ontario] en faisant un portage jusqu'à la Rivière de Tonaouaté [the Don at the present city of Toronto] que s'y décharge. Vous pouvez remarquer au côté Meridional de la Baye de Toronto le Fort supposé, dont je vous a fait mention dans ma

March, a proclamation was issued calling an election of Aldermen and Common Councilmen, for the 27th of that month. The Reformers in the new city were opposed to the act of incorporation on the ground of expense, because the assessment law was deemed objectionable, and Mr. Mackenzie expressed the opinion that it would not work well. The Reformers resolved, however, to profit by the circumstance, and having carried the elections, they selected Mr. Mackenzie for Mayor: the first Mayor not only of Toronto but in the Province. The event was looked upon as possessing some political significance, for Toronto was the seat of government and the headquarters of the Family Compact. And, as the sequel proved, it was prophetic of the result of the next Parliamentary election in the city.

Mr. Mackenzie gave his time gratuitously to the interests of the city; and discharged the duties of Mayor with the same vigor that he carried into every thing he undertook. Every thing had to be done. The whole frame-work of municipal government had to be constructed and set in motion. There was not a side-walk in the city; and those of planks were introduced by the first corporation. The city finances were in a condition that much increased the difficulty of the task. The value of all the rateable property in the

vingt troisième lettre." The English pronunciation of the name of the Don River at Toronto would be something like *Tonawatah*, from which Toronto could not have come as a corruption. Nor is it necessary to resort to any such hypothesis, since Toronto is certainly an Indian name. It is clear enough, from all the evidence, that the site of the city of Toronto was not known to the Indians by that name, but that there were a Bay, a Lake, and a River to the north called Toronto

city was only £121,519; and there was a debt of £9,240, contracted on account of the market buildings, on which the interest was £550 a year. In anticipation of the taxes, it was necessary to borrow £1,000. The Bank of Upper Canada refused to advance the money; its president, the late Dr. Widmer, having unsuccessfully opposed Mr. Mackenzie in the ward election for Alderman. The advertisements of the bank were, at the same time, withdrawn from *The Colonial Advocate*. Application was next made to Truscotte of the Farmers' Bank. He asked what security would be given. The city charter was liable to be vetoed in England; and in this state of uncertainty personal security became necessary. The Mayor and other members of the corporation signed the note. To meet the demands on the city treasury, it was necessary to levy a rate of 3*d.* on the pound. This was regarded as a monstrous piece of fiscal oppression; almost sufficient to justify a small rebellion.* Fifteen times as much is now paid without a murmur. To such an extent was the public dissatisfaction carried at what was considered the exorbitant taxes, that the Mayor found it necessary to call a public meeting, to make an explanation.† This was felt to be the more necessary

* "There was," Mr. Mackenzie said, "a wonderful outcry raised in Toronto that the inequality of the taxes, and the burthensome extent to which they had been laid upon the citizens, were the acts of the corporation, and still more especially the doings of the Mayor. This unfounded statement induced many persons, not only to manifest an unwillingness to pay, but also to urge others to withhold payment, and gave the collectors a great deal of trouble; while some of the members of the council were daily met by complaints, to each of whom a long detail of facts had to be gone into, the whole appearing interminable."

† At this meeting, the Mayor proceeded to explain the system of assessments; the nature of the loan made for roads; the £1,000 assessed from the citizens to

because a small meeting, composed chiefly of officials and their immediate friends and dependents, had already passed a censure upon the Mayor for having, as a journalist, published Mr. Hume's celebrated "baneful domination" letter. The meeting, called by the Mayor, took place on the 29th of July. After Mr. Mackenzie had explained, at some length, the necessity for the three penny tax, Mr. Sheriff Jarvis interrupted, saying it was his intention to move a censure on the conduct of the Mayor. There were some two thousand persons present; and as the majority were the friends of the Mayor, he met this menace by a resolution pledging the citizens not to support, at the next Parliamentary election, a candidate whose position as an office-holder made him dependent on the government. The Sheriff felt the force of the retort; and showing signs of impatience by taking out his watch, his friends in the crowd raised a storm of disapprobation, intended to drown the voice of the Mayor. The confusion of voices, on both sides, rendered it impossible for any one to obtain a further hearing; and the meeting was adjourned till next day. The meeting had commenced at six o'clock in the evening; and on the morning of the second day, the opponents of the Mayor issued placards calling the adjourned meeting at three o'clock in the afternoon—

be expended by the district magistrates; the legacy of 400*l.* of city debt left by the justices, and of £9,400 more for the market building; the "dreadful and unbearable" condition of the streets; the complaints of the prisoners in jail; the presentment of the grand jury, and the absolute refusal of the justices to co-operate with the city council for a remedy; the expenses likely to be incurred in case the cholera were to spread, and the licence moneys withheld by government.

an hour at which it would be very inconvenient for the mechanics and business men to attend. The Mayor, regarding this as a breach of faith, forbade the city bellman to cry the meeting for that hour, and resolved not to attend it himself. The market in which the meeting was held, was a parallelogram; and over the butchers' stalls was a balcony to accommodate spectators. While the Sheriff was addressing the meeting he said: "I care no more for Mackenzie than"—here he looked up and saw a crow flying over—"that crow," he added. This was deemed a great oratorical stroke, and it elicited a cheer. The crowd above, in stamping their feet, broke down the balcony; and in the descent some were impaled on the butchers' hooks, others broke their limbs or received some other injury. Seven or eight died of the injuries they received, and others were crippled for life.

The arms of the city of Toronto, with the motto "Industry, Intelligence, Integrity," were designed by Mr. Mackenzie.

During the term of Mr. Mackenzie's mayoralty, the cholera revisited the city, and swept away every twentieth inhabitant. During the whole of the time that it raged, the Mayor was at the post of duty and of danger. He sought out the helpless victims of the disease, and administered to their wants. He was constant in his attendance on the cholera hospital. In the height of the panic, occasioned by this terrible disease, when nobody else could be induced to take the cholera patients to the hospital, he visited the abodes of the victims, and placing them in the cholera cart, with whatever assistance he could get

from the families of the plague-stricken, drove them to the hospital. On some days he made several visits of this kind to the pest-house. Day and night he gave himself no rest. At length worn out by fatigue, the disease, from which he had done so much to save others, overtook himself. The attack was not of an aggravated nature; and he was fortunate in obtaining the timely assistance of Dr. Widmer; for medical men were difficult to be obtained, and many persons without medical education or experience practised on the unfortunate sufferers.

The Mayor was assiduous in his attention at the Police Court, where he constantly sat to decide the cases that came up. He was frequently accompanied by Alderman Lesslie. At the Mayor's court, too, he presided. Here he had the assistance of juries. His magisterial decisions generally gave satisfaction; but he was much censured for putting into the stocks an abandoned creature, who had frequently been sent to jail without any beneficial effect, and who was, on this occasion, excessively abusive to the Mayor. But this species of punishment was not new. The stocks had till then formed a regular means of punishment. The error belonged to the times quite as much as to the individual. A little before that time, no criminal was allowed to have a counsel for his defence; and when this privilege was accorded, the Chief Justice expressed his doubts of the wisdom of the change. Mr. Bidwell, one day, made an eloquent speech in behalf of a negro charged with theft; and the Chief Justice thought the dangerous influence

of such appeals was the best proof that could be given of the doubtful character of the new privilege accorded to persons accused of crime.

In the beginning of the year, before Toronto was incorporated, Mr. Mackenzie had been elected Town Warden, and, by a strange perversity of accidents, Church Warden also, Presbyterian as he was. Before the close of his mayoralty, he issued a circular, stating his determination to decline to come forward again for the City Council; but when his friends complained that he had no right to desert the Reform cause, he, at the eleventh hour, permitted his name to be used by the parties who had insisted on nominating him for re-election. The Reformers—for the election was made a party question—were defeated; Mr Mackenzie being put out on a national cry raised by the friends of Mr. (afterwards Judge) Sullivan, the second Mayor of Toronto. The grounds of this cry consisted of a judicial investigation, arising out of an unpleasant occurrence at the dinner of the St. Patrick's Society, in which the Mayor unnecessarily, Mr. Sullivan contended, required the evidence of certain ladies.

On the 5th January, 1835, he received the unanimous thanks of a public meeting, "for the faithful discharge of his arduous duties during the period of his office."

While Mayor of Toronto, Mr. Mackenzie was elected to the Assembly by the Second Riding of York, this being the first election since the division of the county into four Ridings. His opponent, Mr. Edward Thomson, obtained one hundred and seventy-

eight votes against three hundred and thirty-four. The general election took place in October, 1834; and in addition to the personal success of Mr. Mackenzie, the party with whom he acted secured a majority in the new House. Mr. Bidwell was elected Speaker, for the second time.

On the 9th December, 1834, the "Canadian Alliance Society" was formed at York. Mr. James Lesslie was President, and Mr. Mackenzie Corresponding Secretary. In the declaration of objects, formed upon resolutions drawn up and submitted by Mr. Mackenzie, for the attainment of which the society was formed, there were eighteen subjects of legislation, twelve of which have been acted upon.* In most cases these

* These are: Responsible Government; Abolition of the Crown-nominated Legislative Council; A more equal Taxation of Property; Abolition of the law of Primogeniture; Disunion of Church and State; Secularization of the Clergy Reserves; Provision for the gradual liquidation of the Public Debt; Discontinuance of undue interference of the Colonial Office in the local affairs of the Province; Cheap Postage; Amendment of the Libel Law; Amendment of Jury Laws; The Control of all the Provincial Revenue to be in the Representatives of the people. The other objects sought for, but which did not recommend themselves to the public reason, were: The prevention of a Legislative Union of Upper and Lower Canada, a Written Constitution, and the Ballot. The abolition of all licensed monopolies, and of all monopolizing land companies, is not accomplished; some may question how far our law system has been simplified and cheapened: two objects of the Alliance, in the latter of which much progress has been made. "To lessen the taxation on labor," and "increase the security of property," are such general propositions that different persons would dispute as to how far they had been carried into effect. The Alliance was to exercise the duties of a political vigilance committee, by watching the proceedings of the Legislature, and enforcing economy and retrenchment. The members were also to devote themselves to the political education of the people, by the "diffusion of sound political information by pamphlets and tracts." And they were to look beyond Upper Canada by "entering into close alliance with any similar association that may be formed in Lower Canada or the other colonies"

questions have been disposed of in the way recommended by the Alliance, and in others the deviation therefrom is more or less marked. The objects of the Society were denounced by the partisans of the government as revolutionary. Their tendency was certainly democratic; and the carrying out of many of the objects of the Alliance shows how far we have advanced in that direction. In making the Legislative Council elective, we have declared the impossibility of realizing Pitt's idea of building up a Colonial aristocracy. By the abolition of the laws of primogeniture, we have taken away the only foundation on which a landed aristocracy could rest. And, in severing the connection of Church and State, we have placed all denominations on a common level. But we have stopped short of the aims of the Alliance. We have not set up a written constitution, "embodying and declaring the original principles of government," nor applied the ballot to the election of Justices of the Peace. We do not select such officers by popular election at all, except as an incident of municipal dignity. For the time, the tide of democracy has been arrested by the civil war in the neighboring Republic; and we may possibly remain at the point of democratic advancement at which we have arrived.

On his return from England, Mr. Mackenzie had announced his intention of giving up the publication of a newspaper. The death of his infant, Joseph Hume Mackenzie, occurring on the 26th of October, 1833, had deeply affected him, and had much to do in bringing him to this determination. He seems to have acted on the impulse of grief; for two days after that

on which the child died, this announcement was made. He would issue one or two irregular papers, and then stop the publication. He had commenced when Reform was less fashionable; and now there were other liberal journals, so that his own could be better spared. But the few fugitive sheets counted up to forty-eight, from October 28, when the announcement was made, to November 4, 1834, when the last number of *The Colonial Advocate* was published.

When he commenced the arduous, and in those days perilous, task of a Reform journalist, Mr. Mackenzie had no enemies among the official party. Setting out with Whig principles, he was driven by the course of events into the advocacy of Radical Reform. "I entered," he says, "the lists of opposition to the Executive, because I believed the system of government to be wretchedly bad, and was uninfluenced by any private feeling, or ill-will, or anger towards any human being whatever." He threw away much of the profits of his business by circulating, at his own expense, an immense number of political documents, intended to bring about an amelioration of the wretched system of government then in existence. "Gain," he truly says, "was with me a matter of comparatively small moment; nor do I regret my determination to risk all in the cause of Reform; I would do it again." He did afterwards risk all on the issue of Revolution, and lost the game. He had, he thought, in 1834, done with the Press for ever. The *Advocate* was incorporated with the *Correspondent*, a paper published by Dr. O'Grady, a Roman Catholic priest, who was at loggerheads with his bishop, under the name of the

Correspondent and Advocate; and Mr. Mackenzie expressed a wish that no one would withhold subscriptions from any other paper, on the expectation that he would ever again connect himself with the Press.

This will be a convenient place to make an estimate of the subject of this biography as a journalist. His writings show an uneven temper; but taking them in the mass, and considering the abuses he had to assail, and the virulence of opposition he met—foul slanders, personal abuse, and even attempted assassination—we have reason to be surprised with the moderation of his tone. In mere personal invective he never dealt. He built all his opposition on hard facts, collected with industry, and subject to the usual amount of error in the narration. Latterly, he had entirely abandoned the practice of replying to the abusive tirades of business competitors or political opponents.

"I part company," he said, "with the corps editorial in the best possible humor." With papers that pursued him with abuse, he ceased to hold any communication; refusing either to read or receive them. He borrowed this metaphor to show how he might have failed to come up to his original intentions: "We begin to cross a strong river, with our eyes and our resolution fixed on the point of the opposite shore on which we propose to land; but gradually giving way to the torrent, we are glad by the aid perhaps of branch and bush to extricate ourselves at some distant and perhaps dangerous landing place, much farther down the stream than that on which we had fixed our intentions." He generally wrote in the first person; and his productions sometimes took the shape of letters

to important political personages. His articles were of every possible length, from the terse, compact paragraph to a full newspaper page. On whatever objects exerted, his industry was untiring; and the unceasing labors of the pen, consuming nights as well as days, prematurely wore out a naturally durable frame. Though possessed of a rich fund of humor, his work was too earnest and too serious to admit of his drawing largely upon it as a journalist. Of Robt. Randal, when his constituents had given him a new suit of clothes, he said: "He now moves among us literally clothed from head to foot with the approbation of his constituents." He sometimes kept note of time by printing at the head of his labors: "Midnight Selections and Reflections (half asleep)." Whatever he did, he did with an honest intention; and though freedom from errors cannot be claimed for him, it may truly be said that his very faults were the results of generous impulses, acted upon with insufficient reflection.

CHAPTER XIX.

Meeting of the new House—Discussion of Mr. Hume's "Baneful Domination" Letter—Solicitor General Hagerman charged with threatening Physical Force Resistance—The Grievance Committee—Epitome and Analysis of its Contents—Read by the King—Meeting of the Legislature delayed till a Reply to Grievance Report could be sent—Total Dependence of the Local Government on Downing Street proscribed—Mr. Mackenzie appointed Director of the Welland Canal—The Disclosures he makes—Career of Mr. Hincks—Mackenzie visits Papineau and the other Popular Leaders of Lower Canada—Letter to Mr. Hume.

THE new House met on the 15th of July, 1835. On the first vote—that on the Speakership—the government was left in a minority of four.* The Solicitor General branded Mr. Bidwell as a disloyal man, who "wished to overturn the government and institutions of the country." Mr. Mackenzie thought it necessary to acquit Mr. Bidwell of the charge of being a member of the Canadian Alliance Society.

The taunt of the Solicitor General was not forgotten when the Lieutenant Governor's speech came up to be answered. The resolutions on which the Address was founded were moved by Mr. Perry, a member of the opposition. The letters of Mr. Hume to Mr. Mackenzie had been denounced by the official party as rank treason. Referring to this circumstance, the Address

* The vote was thirty-one against twenty-seven.

in reply to the Lieutenant Governor's speech expressed satisfaction that "His Majesty has received, through your Excellency, from the people of this Province, fresh proofs of their devoted loyalty and of their sincere and earnest desire to maintain and perpetuate the connection with the great Empire of which they form so important a part;" proofs which would "serve to correct any misrepresentations intended to impress His Majesty with the belief that those who desire the reform of many public abuses in the Province are not well affected towards His Majesty's person and government." It also deprecated the spirit in which honest differences of opinion had been treated by persons in office, who, on that account, had impeached the loyalty, integrity, and patriotism of their opponents, as calculated "to alienate the affections of His Majesty's loyal people and render them dissatisfied with the administration." "But," the Address concluded, "should the government be administered agreeably to the intent, meaning, and spirit of our glorious constitution, the just wishes and constitutional rights of the people duly respected, the honors and patronage of His Majesty indiscriminately bestowed on persons of worth and talent, who enjoy the confidence of the people, without regard to their political or religious opinions, and your Excellency's councils filled with moderate, wise, and discreet individuals, who are understood to respect, and to be influenced by, the public voice; we have not the slightest apprehension but the connection between this Province and the Parent State may long continue to exist, and be a blessing mutually advantageous to both."

A majority of the House—the vote was twenty-nine against twenty-four—rejected an amendment indirectly censuring Mr. Hume's "baneful domination" letter; on which the Solicitor General remarked that the majority avoided the opportunity of "condemning treasonable sentiments." "If," he added in allusion to Mr. Hume's letter, "there be an honorable member of this House who is bound to identify himself with treason; who will stand up and sustain him* who says you are to keep in continual view the revolution of the United States and its results; and that a crisis is fast approaching in the affairs of Canada which will terminate in its independence from the baneful domination of the mother country, I would pronounce such a man to be deeply disloyal indeed." At the same time, Mr. Hagerman found it necessary to defend himself from an insinuation that he was the author of a declaration which, on behalf of the Tories, had threatened to look out for a new state of political existence.

During this debate, Mr. Mackenzie sat silent; though it was against him, as the correspondent of Mr. Hume, that the thunder of the Solicitor General was launched. But the aim, not being direct, left nothing to be parried.

But the matter was not to rest here. On a future day—January 30th—Mr. Gowan brought up the question of Mr. Hume's letter, but without naming it. Having no love for the Family Compact, he included in his resolution of censure the "public declaration of Christopher Alexander Hagerman, Esq.,

* Mr. Hume.

His Majesty's Solicitor General for Upper Canada, that he would resist, by physical force, a law passed by the constituted authorities of the land, and upon the especial recommendation of the King's Government." The Solicitor General's explanation was that he had said he would not pay a capitation tax on emigrants—though it was very clear he could not be asked, since he was not an immigrant—but would rather be sent to prison. Mr. Mackenzie saw that "this proceeding was intended as a shot at him over the head of Mr. Hume;" as the publisher of the letter, the resolution must affect him even more than the writer. "Mr. Hume had said the affairs of the Canadas were coming to a crisis; and had he not the best authority for saying so? The Governor-in-chief had said, in one of his dispatches, that Lower Canada was fast going into a state of confusion." "As for himself," Mr. Mackenzie added, "his loyalty was not suspected either in this country or in England."

In the early part of the session, (January 26,) Mr. Mackenzie moved for and obtained the since celebrated Select Committee on Grievances, whose report, Lord Glenelg stated, was carefully examined by the King, was replied to at great length by the Colonial minister, and was taken by Sir Francis Bond Head—so he said—for his guide, but was certainly not followed by him. As we approach the threshold of an armed insurrection, it is necessary to obtain from those engaged in it their view of the grievances which existed. For this purpose an analysis of the famous Seventh Report of the Committee on Grievances will be necessary.

Soon after, in addressing the Assembly, Mr. Mackenzie said:—"I would impress upon the House the importance of two things: the necessity of getting control of the revenue raised in this country, and a control over the men sent out here to govern us, by placing them under the direction of responsible advisers." The House, about the same time, addressed the Lieutenant Governor for information "in respect to the powers, duties, and responsibilities of the Executive Council; how far that body is responsible for the acts of the Executive Government, and how far the Lieutenant Governor is authorized by His Majesty to act with or against their advice." The Lieutenant Governor replied that the Executive Council had no powers but such as were conferred on them by "the express provisions of British or Colonial statutes," about which the House knows as much as he knew. However, he condescended to proceed to particulars. "It was necessary," he said, "that they should concur with the Lieutenant Governor, in deciding upon applications for lands, and making regulations relative to the Crown Lands Department." And as if there was a peculiar necessity for contradicting his first statement, he said these duties were additional to those imposed by statute. "It was, also," His Excellency proceeded to state, "the duty of the Executive Council to afford their advice to the Lieutenant Governor upon all public matters referred to them for their consideration." He himself, as well as his council, was responsible to the Imperial Government and removable at the pleasure of the King. Where by statute the concurrence of the Executive Council was

required to any act of the government it could not be dispensed with, and in such case the Executive Council must share the responsibility of the particular act. But the Lieutenant Governor claimed the right to exercise "his judgment in regard to demanding the assistance and advice of the Executive Council, except he is confined to a certain course by the instructions of His Majesty."

The Lieutenant Governor fairly expressed the official view of ministerial responsibility, as was afterwards shown by Sir Francis Bond Head's instructions, on his appointment to the Lieutenant Governorship of Upper Canada.

In order to understand what were, at this time, the subjects of complaint by the popular party in Upper Canada, the contents of the Grievance Report must be examined. And to discover the spirit in which these complaints were met in England, the reply of Lord Glenelg, then Secretary of State for the Colonies, must be consulted. We are not entitled to pass over, as of no interest, these complaints which proved to be the seeds of insurrection, and the prompt response to which would have prevented the catastrophe that followed, in less than three years after.

To the Select Committee on Grievances was referred a number of documents, including the celebrated dispatch of Lord Goderich, and the accompanying documents, written by Mr. Mackenzie while in England; the answer of the Lieutenant Governor in reply to an address of the House of Assembly for information regarding the dismissal of the Crown officers, the reappointment of one of them, and the selection of Mr. Jame-

son as Attorney General; together with petitions, vice-regal messages, and other documents. The committee examined witnesses as well as documents, and their Report, with documents and evidence, makes a thick octavo volume.

“The almost unlimited extent of the patronage of the Crown, or rather of the Colonial minister for the time being,” the Report declared, was the chief source of Colonial discontent. “Such,” it added, “is the patronage of the Colonial office, that the granting or the withholding of supplies is of no political importance, unless as an indication of the opinion of the country concerning the character of the government.” Mr. Stanley, while in communication with Dr. Baldwin, as chairman of a public meeting in York, some years before, had pointed to the constitutional remedies of “addressing for the removal of the advisers of the Crown, and refusing supplies.” The former remedy had been twice tried, but without producing any good effect, and almost without eliciting a civil reply. The second was hereafter to be resorted to. When the Province first came under the dominion of the British Crown, certain taxes were imposed by Imperial statute for the support of the local government. In time, as the House of Assembly acquired some importance and had attracted some able men, the control of these revenues became an object of jealousy and desire. Before there had been any serious agitation on the subject, in Upper Canada, these revenues were surrendered in exchange for a permanent Civil List. An opportune moment was chosen for effecting this change. Neither of the two previous Houses would have assented to the

arrangement, nor would that which had now come into existence, so long as there were no other constitutional means of bringing the administration to account than that which might have been obtained by a control of the purse-strings. The granting of a permanent Civil List had looked to the Reformers like throwing away the only means of control over the administration. Indirectly the Executive controlled what was, properly speaking, the municipal expenditure. Magistrates appointed by the Crown met in Quarter Session to dispose of the local taxes. The bench of Magistrates in the Eastern District had, that very session, refused to render the House an account of their expenditure. This was, somewhat illogically, held to be proof that the mode of their appointment was vicious. Considered as dispensers of local taxes, the objection was good; but if it extended to their magisterial duties, it was bad. This distinction was overlooked by the committee. The old objections to the Post-office being under the control of the Imperial Government were reiterated. The patronage of the Crown was stated to cover £50,000 a year, in the shape of salaries and other payments, exclusive of the Clergy Reserve revenue; the whole of the money being raised within the Province. The £4,472, which had annually come from England for the Church of England, had been withdrawn in 1834. Considering the poverty of the Province, the scale of salaries were relatively much higher than at present. Ten persons were in receipt of \$4,000 a year each for their public services. The mode of treating the salaries received by the public functionaries, pursued in

this report, is not free from objection. The bare statement that "the Hon. John H. Dunn has received £11,534 of public money since 1827," proved nothing; yet the aggregate sum was calculated to create the impression that there was something wrong about it. Some salaries and fees were undoubtedly excessive. Mr. Ruttan received, in fees, as Sheriff of the Newcastle District, in 1834, £1,040, and in the previous year, £1,180. Pensions had been pretty freely dispensed out of the Crown revenue.

Under the head of pensions, £30,500 is set down as having been paid to eleven individuals, within eight years; but we hardly think the payment to Bishop McDonnell should have come under that designation. While the Church of England received the proceeds of the Clergy Reserves, annual payments were made by the government to several other denominations.* Profuse professions of loyalty sometimes accompanied applications for such payments; and there seemed to be no shame in confessing something like an equivalent in political support. The Church of England managed to get the lion's share; and this naturally brought down on her the envy and jealousy of other denominations. Of twenty-three thousand nine hundred and five acres of public lands set apart as glebes,

* Archdeacon (afterwards Bishop) Strachan, when called before the committee, said: "There should be, in every Christian country, an established religion; otherwise it is not a Christian, but an infidel country." The Roman Catholics, under the treaty between England and France, by which they were guaranteed all their accustomed rights and dues, at the conquest of the country, collected tithes from their own people in Glengary and Essex, the two parts of the Upper Province where the Catholics were numerous. The tithe, as it was called, extended to only a twenty-sixth part of the tithable produce.

between 1789 and 1833, the Church of England had obtained twenty-two thousand three hundred and forty-five acres.

It was complained that much of the money granted for general purposes was very imperfectly accounted for. "The remedy," said the Report, "would be a Board of Audit, the proceedings of which should be regulated by a well considered statute, under a responsible government." In due time, both these things came; Mr. Mackenzie having, in these as in numberless other instances, been in advance of the times.

Justices of the Peace, it was complained, had been selected almost entirely from one political party.

The necessity of a responsible administration to any effectual reform of abuse had been frequently insisted on by Mr. Mackenzie. "One great excellence of the English Constitution," says this Report, "consists in the limits it imposes on the will of a King, by requiring responsible men to give effect to it. In Upper Canada no such responsibility can exist. The Lieutenant Governor and the British ministry hold in their hands the whole patronage of the Province; they hold the sole dominion of the country, and leave the representative branch of the Legislature powerless and dependent." English statesmen were far from realizing the necessity of making the Colonial government responsible; and for some years after the official idea continued to be that such a system was incompatible with Colonial independence. Mr. Stanley had been one of the few who thought that "something might be done, with great advantage, to give a really responsible character to the Executive Council, which at

present is a perfectly anomalous body, hardly recognized by the Constitution, and chiefly effective as a source of patronage." Only a few years before, Attorney General Robinson had denied the existence of a ministry in Upper Canada, and claimed the right to act solely upon his own individual responsibility in the House, and without reference to any supposed necessity for agreement with his colleagues. And Lord Goderich held that the Colonial Governors were alone responsible. He complained that the Legislative Councils had been used "as instruments for relieving Governors from the responsibility they ought to have borne for the rejection of measures which have been proposed by the other branch of the Legislature, and have not seldom involved them in dissensions which it would have been more prudent to decline. The effect of the institution therefore," he added, "is too often to induce a collision between the different branches of the Legislature, to exempt the Governor from a due sense of responsibility, and to deprive the representative body of some of its most useful members." The Executive Council had scarcely any recognized duties beyond those which were merely ministerial. The Lieutenant Governor did not at all feel bound to ask the advice of his councillors, or to act upon it when given. In appointments to office, they were, as a rule, not consulted. The giving or withholding of the Royal assent to bills passed by the Legislature was a matter entirely in the hands of the Lieutenant Governor. Yet the Executive Council was recognized by the Constitutional Act; and cases were specially mentioned in which the Governor was re-

quired to act upon their advice. The Lieutenant Governor, coming a stranger to the Province, could not act without advice; and he was lucky if he escaped the toils of some designing favorite, who had access to his presence, and could determine his general course. The vicious habit of sending out military governors, who were wholly unsuited for civil administration, was in vogue. The only excuse for pursuing this course was that a Lieutenant Governorship was not a sufficient prize to attract men of first rate abilities. There was great diversity of opinion as to the possible success of responsible government. It had never been tried in any of the old colonies. Mr. Mackenzie had, while in England, endeavored to convince Lord Goderich that, with some modifications, it might be made the means of improving the Colonial Government. The sum of the whole matter is that the system made the Lieutenant Governor responsible, in the absence of responsible advisers by whom he might have been personally relieved; and he, in turn, was only too glad to make the Legislative Council perform the functions which, on questions of legislation, naturally belonged to a responsible administration. He had them under his control.

The Committee, insisting on the necessity of entire confidence between the Executive and the House of Assembly, tracing it to the material progress of the Province; thereby admitting by implication that, in the early states of colonial existence, the want of a responsible administration had not been recognized. "This confidence," it was truly added, "cannot exist while those who have long and deservedly lost the esteem

of the country are continued in the public offices and councils. Under such a state of things," it was added, "distrust is unavoidable; however much it is to be deplored as incompatible with the satisfactory discharge of the public business." Sir John Colborne had admitted* that, "composed as the Legislative Council is at present, the Province had a right to complain of the great influence of the Executive Government in it." In 1829, it comprised seventeen members, exclusive of the Bishop of Quebec, not more than fifteen of whom ever attended; and of these six were members of the Executive Council, and four more held offices under the government. It was no easy matter, in the then state of the Province, to find persons qualified to fill the situation of Legislative Councillor; and that circumstance had doubtless something to do in determining its character. In 1834, the Council contained an additional member;† but he drew an annual salary from the government, and did not therefore, by his presence, tend to increase its independence of the Executive. While Sir John Colborne professed to be desirous of seeing the Legislative Council rendered less dependent upon the Crown, it was in evidence that the Executive was in the habit of coercing the members whom it could control. Instances of remarkably sudden changes of opinion, effected by this means, were given. A disavowal of judicial and legislative functions had been frequently asked by the Legislative Assembly; but the Chief Justice still continued Speaker of the Legislative Council. From

* Dispatch to Sir George Murray, February 16, 1829.

† Bishop McDonnell.

the facts before them, the committee concluded that the second branch of the Legislature had failed to answer the purpose of its institution, and could "never be made to answer the end for which it was created;" and that "the restoration of Legislative harmony and good government requires its reconstruction on the elective principle."

Although many may think this an erroneous opinion, it cannot be matter of surprise that it should have found expression. The Legislative Council, owing its creation to the Crown, and its members being appointed for life, found itself in constant collision with the Representative Chamber. This collision created irritation; and the people naturally took the part of their representatives in the contest. If there had been an Executive Council to bear the responsibility that was thrown on this branch of the Legislature, a change of ministry would have obviated the desire for a change of system. The Legislative Council would have been modified by having additions made to its numbers, as was done after the inauguration of responsible government; and the second Chamber, being kept in harmony with the popular will, would not have been attacked in its constitution. The opinion that the Council ought to be made elective was not confined to Canada; it had been shared by several English statesmen, including Sir James Mackintosh, Mr. Stanley, and Mr. Labouchere.

Instances were adverted to by the committee, in which the members of the local Executive had prevented the good intentions of the Imperial Government being carried into effect. Three members of the

Executive Council, Messrs. Markland, Strachan, and P. Robinson, refused to answer several of the questions put to them by the committee. This un-English habit had been encouraged by Lieutenant Governor Maitland, who, in 1828, in a dispatch to the Secretary of State for the Colonies, said: "If the Assembly can, without communicating with the Lieutenant Governor, summon the Receiver General or the Inspector General of Public Accounts, or any of their clerks, to attend a Select Committee, and compel their attendance at the peril of imprisonment, the government here has no longer any discretion to exercise."

Such was the famous Report of the Committee of Grievances.* It elicited from the Secretary of State for the Colonies a reply, which we must now proceed to consider. But before the reply came, Lord Glenelg, October 20, 1835, conveyed to Canada the assurance that the King, having had the Report before him, had "been pleased to devote as much of his time and attention, as has been compatible with the shortness of the period which has elapsed since the arrival in this country" of the dispatch enclosing the document.

* Whether from oversight or whatever cause, the Grievance Report had not been adopted by the House; though two thousand copies had been ordered to be printed in an unusual form, and had been distributed. On the 6th of February, 1836, however, the Assembly resolved, by a vote of twenty-four against fifteen, "that the facts and opinions embodied in that report continue to receive the full and deliberate sanction and confirmation of the House and the people whom it represents; and that it is our earnest desire that the many important measures of reform recommended in that report may be speedily carried into effect by an administration deservedly possessing the public confidence." A copy of this resolution was ordered to be sent to the Secretary of State for the Colonies. It was passed a week after Lord Glenelg's dispatch had been laid before the Legislature.

In the ordinary course of things, the Upper Canada Legislature would have met in November; but so important was it deemed that the report should be responded to, that Major-General Colborne was directed to delay the calling of the House till the ensuing January—a delay of three months. At the same time, an assurance was conveyed that the House would find, in the promised communications, “conclusive proof of the desire and fixed purpose of the King to redress every real grievance, affecting any class of His Majesty’s subjects in Upper Canada, which has been brought to His Majesty’s notice by their representatives in Provincial Parliament assembled.” A belief was at the same time expressed, that the Assembly “would not propose any measure incompatible with the great fundamental principles of the constitution,” which, in point of fact, had been systematically violated by the ruling party.

The promised reply of Lord Glenelg was dated December 15, 1835. It took the shape of instructions to Sir Francis Bond Head,* on his appointment to the Lieutenant Governorship of Upper Canada. The hope was expressed that, unless in an extreme emergency, the House would not carry out the menaced refusal of supplies. But Lord Glenelg must have

* Sir F. B. Head, who had been instructed to communicate the substance of these instructions to the Legislature, laid the entire dispatch before the two Houses; a proceeding for which he incurred the disapprobation of the Colonial office, and of the British public. He admitted that he was aware the proceeding would embarrass Lord Glenelg; but he excused himself by alleging that the original draft of the dispatch authorized him to communicate a copy of it; and the King had made the alteration with his own hand; as if the original intention of the Colonial minister ought to supersede the final decision of the minister and the Sovereign.

seen that the House must be the judge of what constituted such an emergency as would justify a resort to this extreme measure. The patronage at the disposal of the Crown, which had been so much complained of, had been swelled by the practice of confiding to the government or its officers the prosecution of all offences. But this circumstance was declared to be no proof of any peculiar avidity on the part of the Executive for the exercise of such power. The transfer of the patronage to any popular body was objected to as tending to make public officers virtually irresponsible, and to the destruction of the "discipline and subordination which connect together, in one unbroken chain, the King and his Representative, in the Province, down to the lowest functionary to whom any portion of the powers of the state may be confided." The selection of public officers, it was laid down, must for the most part be entrusted to the head of the local government; but there were cases in which the analogy of English practice would permit a transference of patronage from the Lieutenant Governor to others. Whatever was necessary to ensure subordination to the head of the government was to be retained; every thing beyond this was at once to be abandoned. Subordinate public functionaries were to continue to hold their offices at the pleasure of the Crown. They incurred no danger of dismissal except for misconduct; and great evils would result from making them independent of their superior. The new Lieutenant Governor was instructed to enter upon a review of the offices in the gift of the Crown, with a view of ascertaining to what extent it would be possible to reduce

them without impairing the efficiency of the public service, and to report the result of his investigation to the Colonial Secretary. He might make a reduction of offices either by abolition or consolidation; but any appointment made under those circumstances would be provisional and subject to the final decision of the Imperial Government. In case of abolition, the deprived official was to receive a reasonable compensation. What share of the patronage of the Crown or the local government could be transferred to other hands was to be reported. A comparison of claims or personal qualifications was to be the sole rule for appointments to office. As a general rule no person not a native or settled resident was to be selected for public employment. In case of any peculiar art or science, of which no local candidate had a competent knowledge, an exception was to be made. In selecting the officers attached to his own person, the Lieutenant Governor was to be under no restriction. Appointments to all offices of the value of over £200 a year were to be only provisionally made by the Lieutenant Governor, with a distinct intimation to the persons accepting them that their confirmation must depend upon the approbation of the Imperial Government, which required to be furnished with the grounds and motives on which each appointment had been made.

If this shows a disposition to treat the colonists with consideration, it was the sort of consideration which we bestow upon infants, and persons wholly incapable of managing their own affairs.

To any measure of retrenchment, compatible with the just claims of the public officers and the efficient

performance of the public duties, the King would cheerfully assent. The Assembly might appoint a commission to fix a scale of public salaries. The pensions already granted and made payable out of the Crown revenues were held to constitute a debt, to the payment of which the honor of the King was pledged; and on no consideration would His Majesty "assent to the violation of any engagement lawfully and advisedly entered into by himself or any of his Royal predecessors." At the same time, the law might fix, at a reasonable limit, the amount of future pensions; and to any such measure the Lieutenant Governor was instructed to give the assent of the Crown. The Assembly was anxious to dispose of the Clergy Reserves, and place the proceeds at the control of the Legislature. The other chamber objected; and Lord Glenelg urged strong constitutional reasons against the Imperial Parliament exercising the interference which the Assembly had invoked. And it must be confessed that, in this respect, the Assembly was not consistent with its general principles or with those contended for by the popular party. It was easy to put the Assembly in the wrong; and Lord Glenelg made the most of the opportunity. But with strange inconsistency, the Imperial Government, in 1840, assumed, at the dictation of the Bishops, a trust which five years before they had refused to accept at the solicitation of the Canadian Assembly, on the ground of its unconstitutionality. Lord Glenelg admitted that the time might arrive, if the two branches of the Canadian Legislature continued to disagree on the subject, when the interposition of the Imperial Parlia-

ment might become necessary; but the time selected for interference was when the two branches of the local Legislature had for the first time come to an agreement, and sent to England a bill for the settlement of the question.

On the question of King's College and the principles on which it should be conducted, the two Houses displayed an obstinate difference of opinion, and the Lieutenant Governor was instructed, on behalf of the King, to mediate between them. The basis of the mediation included a study of Theology; and it was impossible satisfactorily, in a mixed community, to do this with a hope of giving general satisfaction. This college question having once been placed under the control of the local Legislature, Lord Glenelg could not recommend its withdrawal at the instance of one of the two Houses.

The suggestion for establishing a Board of Audit was concurred in. As a fear had been expressed that the Legislative Council would oppose a bill for such a purpose, the Lieutenant Governor was authorized to establish a Board of Audit provisionally, till the two Houses could agree upon a law for the regulation of the Board. Lord Glenelg objected to the enactment of a statute requiring that the accounts of the public revenue should be laid before the Legislature, at a particular time, and by persons to be named; since this would confer on them the right to "exercise a control over all the functions of the Executive Government," and give them a right of inspecting the records of all public offices to such an extent as would leave "His Majesty's representative and all other public

functionaries little more than a dependent and subordinate authority." Besides, it was assumed they would be virtually irresponsible and independent. At the same time, the Lieutenant Governor was to be prepared at all times to give such information as the House might require respecting the public revenue, except in some extreme case where a great public interest would be endangered by compliance.

Rules were even laid down for the regulation of the personal intercourse of the Lieutenant Governor with the House. He was to receive their addresses with the most studious courtesy and attention, and frankly and cheerfully to concede to their wishes, as far as his duty to the King would permit. Should he ever find it necessary to differ from them, he was to explain the reasons for his conduct in the most conciliatory terms. The celebrated dispatch of Lord Goderich, written in consequence of the representations made by Mr. Mackenzie, while in England, was to be a rule for the guidance of the conduct of Sir Francis Bond Head. Magistrates who might be appointed were to be selected from persons of undoubted loyalty, without reference to political considerations.

On the great question of Executive responsibility Lord Glenelg totally failed to meet the expectations expressed in the Grievance Report to which he was replying. He did more; he assumed that "the administration of public affairs, in Canada, is by no means exempt from the control of a sufficient practical responsibility. To His Majesty and to Parliament," it was added, "the Governor of Upper Canada is at all times most fully responsible for his official acts."

Under this system the Lieutenant Governor might wield all the powers of the government, and was even bound to do so, since he was the only one who could be called to account. The House of Assembly, if they had any grounds of complaint against the Executive, were told that they must seek redress, not by demanding a removal of the Executive Council, but by addressing the Sovereign against the acts of his representative. Every Executive councillor was to depend for the tenure of his office, not on the will of the Legislative Assembly, but on the pleasure of the Crown. And in this way responsibility to the central authority in Downing street, of all the public affairs in the Province, was to be enforced. The members of the local government might or might not have seats in the Legislature. Any member holding a seat in the Legislature was required blindly to obey the behests of the Lieutenant Governor, on pain of instant dismissal. By this means it was hoped to preserve the head of the government from the imputation of insincerity, and conduct the administration with firmness and decision.

These instructions embody principles which might have been successfully worked out by a Governor and Council. But they were inapplicable in the presence of a Legislature. There was no pretence that the system was constitutional, and the elective chamber must be a nullity when the Crown-nominated Legislative Council could at any time be successfully played off against it. As for responsibility to the Canadian people, through their representatives, there was none. All the powers of the government were centralized in

Downing street, and all the Colonial officers, from the highest to the lowest, were puppets in the hands of the Secretary of State for the Colonies. At the same time, the outward trappings of a constitutional system, intended to amuse the colonists, served no other end than to irritate and exasperate men who had penetration enough to detect the mockery and whose self-respect made them abhor the sham.

On the 6th of March, 1835, Mr. Mackenzie was appointed by the House of Assembly Director of the Welland Canal Company, in respect of the stock owned by the Province. He entered into a searching investigation of the manner in which the affairs of the company had been conducted; and if he showed a somewhat too eager anxiety to discover faults, and made some charges against the officers and managers of the company that might be deemed frivolous, he also made startling disclosures of worse than mismanagement. With the impatience of an enthusiast, he published his discoveries before the time came for making his official report; sending them forth in a newspaper-looking sheet, entitled *The Welland Canal*, three numbers of which were printed. A libel suit, in which he was cast in damages to the amount of two shillings, resulted from this publication; and Mr. Merritt, President of the company, in the ensuing session of the Legislature, moved for a committee to investigate the charge brought against directors and officers of this company. It was a bold stroke on the part of the President; but, unfortunately for the canal management, the committee attested the discovery of large defalcations on the part of the company's officers

Accounts sworn to by the Secretary of the company, and laid before the Legislature, were proved to be incorrect.* Large sums—one amount was £2,500—of the company's money had been borrowed by its own officers, without the authority of the Board. Improvident contracts were shamefully performed. The president, directors, and agents of the company leased water powers to themselves. The company sold, on

* In a letter to Mr Mackenzie, dated Toronto, September 16th, 1836, Mr Francis Hincks, than whom there was no better judge of accounts, said: "As to the Welland Canal books, I have already said, and I now publicly repeat and am willing to stake my character on the truth of it, that for several years they are full of false and fictitious entries, so much so that if I was on oath I could hardly say whether I believe there are more true or false ones. I am persuaded it is impossible for an accountant who desires to arrive at truth to investigate them with any satisfaction, particularly as the vouchers are of such a character as to be of little or no service. With respect to the charges against the Welland Canal officers, the press and the public seem to have predetermined that unless Mr. Merritt and others were proved guilty of an extent of fraud that would have justly subjected them to a criminal prosecution, they were to be absolved from all blame, and to escape censure for the numerous charges which have been clearly proved. The conduct of the press, and indeed, the House of Assembly, on this subject, has been such as to encourage a similar system of managing the money of the people, and, most assuredly, to deter any individual from even attempting to expose similar abuses. It has been clearly proved that large sums of money have been lost to the Company, and, of course, to the Province, which, if the present directors do their duty, can, in great part, be recovered; yet you, the person who have discovered these losses, and what is still better, have exposed the system, have been abused in the most virulent manner from one end of the Province to the other, and have not obtained the slightest remuneration for your services. At the same time it is never asked, in any of the public prints, whether Mr. Merritt, who was twice paid, (as is admitted even by himself, although as he states, 'by mistake,') about \$1,000 of salary several years ago, has refunded this money, or whether any steps have been taken to rectify errors already proved."

Mr. Mackenzie met a shower of abuse from the men whose misconduct he had exposed. On the floor of the Legislative Assembly they and their partisans treated him as an enemy to the canal and to the country; deserving, for what he had done, only the worst epithets they could heap upon him.

a credit of ten years, over fifteen thousand acres of lands, together with water privileges, for £25,000, to Mr. Alexander McDonnell, in trust for an alien of the name of Yates; allowing him to keep two hundred acres, forming the town plots of Port Colborne and Allanburg. A quarter acre sold at the latter place for \$100. They repurchased the remainder, for which the company's bonds for £17,000 were given to Yates; though all they had received from him was eighteen months' interest, the greater part of which he had got back in bonuses and alleged damages said to have arisen from the absence of water power. If such a transaction were to occur in private life, the committee averred that it "would not only be deemed ruinous, but the result of insanity." Mr. George Keefer, while a director, became connected with a contract for the locks. A large number of original estimates, receipts, and other important documents were missing; and no satisfactory account of what had become of them could be obtained. The books were kept in the most slovenly and discreditable manner, being blurred with blunders, suspicious alterations, and erasures. The length of the canal was unnecessarily extended; but if the company suffered from this cause, individuals profited by the operation. Improvident expenditures, all the worse in a company cramped for means, were proved to have been made. One Oliver Phelps owed the company a debt of \$30,000 covered by mortgage, which was released by the Board without other satisfaction than a deed of some land worth about \$2,000. It was not a case of writing off a bad debt, because the property covered by the mortgage was

good for the amount. Over \$5,000 worth of timber purchased by the company and not used was parted with without equivalent. Some of it was stolen, some used by Phelps who was not charged with it, and some purchased by a member of the Assembly, Mr. Gilbert M'Micking, in such a way that the company derived no advantage from the sale.

The difference between Mr. Mackenzie and the Committee of the House was this: he suspected the worst, in every case of unfavorable appearances; they were willing to make many allowances for irregularities, where positive fraud could not be proved. The committee carried their leniency further than they were warranted by the facts. In the same sentence in which they acquitted the directors of any intentional abuse of the powers vested in them, they confessed themselves unable to explain the Phelps transaction.

The ludicrous part of this investigation consists of numerous items charged to the contingent account by Mr. Merritt, President of the Company. A few samples may be given. "Play, 3s. 9d.;" "Barber, 7½s.;" "Repairing my watch, 7s. 6d.;" "Segars and Snack." "Club for gin, 3s. 1½d. Club for segars, 1s.;" "Paid doctor for attendance, 10s." There were whole columns of such figures as these, amounting to about \$400, duly audited and passed by the Board. But it must be admitted that even this petty larceny showed method and exactness; and if the amount had been charged as travelling expenses, without a ridiculous detail, it would probably not have been challenged. Certainly it would not have excited ridicule.

In this investigation, there was employed as

accountant, a young man of whose abilities Mr. Mackenzie conceived a very high opinion ; so much so that he remarked to him, that he should be glad to see him Inspector General of Public Accounts for Upper Canada. But he added with sleepless suspicion, "The only question with me is, whether you would be proof against the temptations of the position." That accountant was Francis Hincks. He was afterwards Inspector General for United Canada, and leader of the government ; then Governor of the Windward Islands, and is now Governor of British Guiana, with a salary of £5,000 a year, and £2,000 for contingencies. He has fully justified the prevision of Mr. Mackenzie, and risen by the force of his talents to a higher position than the latter had ventured to assign to him.

Mr. Mackenzie spent several months in this investigation at St. Catharine's, the head-quarters of the company. In 1836, a committee of the House recommended a compensation of \$1,000 for his services ; but, as the regular supplies were not granted that year, the money was not paid. The Canadian insurrection, occurring towards the close of 1837, led to his exile for several years, in the United States ; and as he was the last of the exiles to whom the Royal clemency was extended, he was not paid the \$1,000 till 1851, and then without interest.

In November, 1835, Mr. Mackenzie visited Quebec, in company with Dr. O'Grady. They went as a deputation from leading and influential Reformers, in Upper Canada, to bring about a closer alliance between the Reformers in the two Provinces. In the Lower Province affairs were more rapidly approaching a crisis than

in the West. The difficulties arising out of the control of the revenue had led to the refusal of the supplies by the Lower Canada Assembly; and in 1834, £31,000 sterling had been taken out of the military chest, by the orders of the Imperial Government, to pay the salaries and contingencies of the judges and the other public officers of the Crown, under the hope that, when the difficulties were accommodated, the Assembly would reimburse the amount. But the difficulties, instead of meeting a solution, continued to increase. As the grievances of which the majority in the two Provinces complained had much in common, the respective leaders began to make common cause. The Provinces had had their causes of differences, arising out of the distribution of the revenue collected at Quebec. But the political sympathies of the popular party, in each Province, were becoming stronger than the prejudices engendered by the fiscal difficulties, and which had acted as a mutual repulsion. Mr. Mackenzie and his co-delegate met a cordial and affectionate welcome. "All the liberal members" of the Lower Canada Assembly "flocked around them to testify the sincere interest they took in the progress of good government in Upper Canada, and to tender them their hearty co-operation."* This expression of sympathy, extending to all classes of Reformers, was expected to prove to the authorities, both in Canada and England, "that the tide is setting in with such irresistible force against bad government, that if they do not yield to it before long, it will shortly overwhelm them in its rapid and onward progress." Mr. Mackenzie was on good terms

* *Montreal Vindicator.*

with Papineau, whose word was law in the Assembly of Lower Canada, of which he was Speaker, but who, in Committee of the Whole, used the greatest freedom of debate. This visit resulted in establishing a better understanding between the Reformers of the two Provinces.* Mr. Mackenzie has left it on record that "changes were then in contemplation, which would in a certain degree have affected individuals," if generally known; but as this statement was shortly afterwards published, it cannot be taken to have reference to that armed insurrection which ultimately followed. To a very late period, Mackenzie and those who acted with him continued to hope that the reforms for which they contended would be peaceably granted.

In December, 1835, he addressed a long letter to Mr. Hume—which was published just before the elections of the next year took place—on the condition of the Province. Its principal complaints were: that jury trials were in the hands of sheriffs, who held office during the pleasure of the King; that an extensive domain had been improvidently ceded to the

* In the session of the Upper Canada Legislature for 1836, Mr. Mackenzie carried the following resolution by a large majority:—"That it is the desire of this House to cultivate a good understanding with Lower Canada, and that a select committee be appointed to draft a bill to this House, for the appointment of commissioners to meet any commissioners that may be appointed by the Legislature of Lower Canada, to consider of matters of mutual importance to both Provinces, especially the questions of boundaries, trade, emigration, customs' duties, and revenue." This resolution was in the spirit of one of the declared objects of the "Canadian Alliance Society." This year, Mr. Papineau, the Speaker of the Lower Canada Assembly, sent a long letter to Mr. Speaker Bidwell, of the Upper Canada Assembly; in which the principles of Colonial Government laid down in Lord Glenelg's dispatch in reply to the "Grievance Report" were denounced, and a responsible government and an elective Legislative Council declared to be necessary.

Canada Company; that the Legislative Council continued to reject the bills passed by the Assembly; that the administration of justice was in the hands of a party forming among themselves a Family Compact; that, owing to these circumstances, property and liberty were held by a very precarious tenure; that the administration of the government was in the hands of men, in whom neither the people nor their representatives had any confidence; that, as a consequence of this state of things, there was little immigration,* and many residents were thinking of quitting the Province; that the idea of successive Colonial Secretaries had been to govern the Province by orders sent from Downing Street, to be executed by agents selected there; that there was no means of exacting strict accountability for the public moneys; that the Reformers of both Provinces directed their exertions mainly to the accomplishment of four objects: an elective Legislative Council, an Executive Council responsible to public opinion, the control of the whole Provincial revenues, and a cessation of interference on the part of the Colonial office—"not one of which," he said, "I believe will be conceded till it is too late."† The prediction proved correct; but all these changes have been effected since the insurrection of 1837. He ten-

* In 1835, the immigration to Upper Canada had fallen off two-thirds as compared with the average of former years.

† Though all these objects have now been carried into effect, Sir Francis Bond Head regarded their advocacy as proof of treasonable designs. In a dispatch to Lord Glenelg, dated June 22, 1836, after quoting the above passage, he says: "As the Republicans in the Canadas generally mask their designs by professions of attachment to the mother country, I think it important to record this admission on the part of Mackenzie of the traitorous object which the Reformers in this Province have in view."

dered his thanks to Mr. Hume for his exertions on behalf of Canada in these words:

“On behalf of thousands whom you have benefited, on behalf of the country so far as it has had confidence in me, I do most sincerely thank you for the kind and considerate interest you have taken in the welfare of a distant people. To your generous exertions it is owing that tens of thousands of our citizens are not at this day branded as rebels and aliens; and to you alone it is owing that our petitions have sometimes been treated with ordinary courtesy at the Colonial office.

“We have wearied you with our complaints, and occupied many of those valuable hours which you would have otherwise given to the people of England. But the time may come when Canada, relieved from her shackles, will be in a situation to prove that her children are not ungrateful to those who are now, in time of need, their disinterested benefactors.”

A shadowy idea of independence appears already to have been floating in men's minds; and it found expression in such terms as are employed in his letter about Canada being relieved of her shackles.

CHAPTER XX.

Sir Francis Bond Head arrives in Upper Canada—His Speech on opening the Legislature—Mackenzie tries to remove the Restrictions on the Trade of the Province—The House snub the Lieutenant Governor in their Reply to the Address—Why were Members of the Government supported in a Departure from Lord Goderich's Dispatch?—Sir F. B. Head affects a Readiness to redress all Grievances—He appoints three new Executive Councillors from the Liberal Party—Resignation of the new Council because they were not consulted on the Affairs of the Province—They are sustained by the House, and the Lieutenant Governor sharply censured—Responsible Government and Separation from England—The Lieutenant Governor and the "Industrious Classes"—Four new Executive Councillors—The House of Assembly address the Lieutenant Governor to dismiss them—He refuses—Question of Popular Colonial Councils—Sir F. B. Head boasts of having provoked a Disturbance at a Public Meeting—Stoppage of Supplies and Reservation of Money Bills—Dissolution of the House—Unconstitutional and violent Means resorted to by the Lieutenant Governor for carrying the Elections—He instructs the Colonial Office how to act—Opposes the Surrender of the Crown Revenues and denounces the Project of a Responsible Administration—"Let them come if they dare"—Practical Joke on the Lieutenant Governor—His strange Doings and his Contumacy—Mackenzie, Bidwell, and Perry lose their Elections—Excitement at Mackenzie's Election—The Influences arrayed against him—He weeps over his Defeat—Is attacked with a dangerous Illness—His Protest not allowed to go to an Election Committee—Proof of the Lieutenant Governor's Unconstitutional Interference in the Elections—He was required to put in his Defence.

ON the 14th January, 1836, Sir Francis Bond Head, who had just arrived in the Province as Lieutenant Governor,* opened the session of the Upper Canada

*Sir Francis Bond Head afterwards admitted, with admirable candor, that he "was really grossly ignorant of every thing that in any way related to the

Legislature. The Royal speech, in referring to the dissensions that had taken place in Lower Canada, and to the labors of the Imperial commissioners appointed to inquire into the grievances complained of, assured the House that, whatever recommendations might be made, as the result of this inquiry, the constitution of the Provinces would be firmly maintained. As the constitution of the Legislative Council was one of the subjects of inquiry, this information could not be very consolatory to the Reformers.

During the session, Mr. Mackenzie carried an Address to the King on the subject of the restraints imposed upon the Province by the commercial legislation of the mother country. British goods could not pass through the United States, on their way to Canada, without being subjected to the American duty; and the Address prayed that the Sovereign would negotiate with the Washington Government, for the free passage of such goods. The facility of transport thus asked for was fully secured by the United States Bonding Act passed ten years after. For the purpose of upholding the monopoly of the East India Com-

government of our colonies." He was somehow connected with paupers and poor laws in England when he was appointed; and was totally unfitted by experience and temperament to be Lieutenant Governor of an important dependency of the British Crown. How Lord Glenelg could have stumbled upon so much incapacity is as great a mystery to the Canadians, at this day as it was to Sir Francis when, at his lodgings at Romney, in the County of Kent, his servant, with a tallow candle in one hand, and a letter brought by a King's officer in the other, enabled him to make the discovery that he had been offered the Lieutenant Governorship of Upper Canada. He was in a sound sleep when the servant arrived; and if other men have found themselves famous when they woke of a morning, Sir Francis Bond Head found himself suddenly roused up to be informed that he was on the way to enforced greatness.

pany, not an ounce of tea could be imported into Canada by way of the United States. The abolition of this monopoly was demanded. Canadian lumber and wheat were heavily taxed—25 cents a bushel on the latter—on their admission into the United States: the same articles coming thence into the Province were free of duty. Mr. Mackenzie anticipated by eighteen years the Reciprocity Treaty of 1854. The Address prayed “that His Majesty would cause such representations to be made to the Government of the United States as might have a tendency to place this interesting branch of Canadian commerce on a footing of reciprocity between the two countries.” Nor did he stop here. He thought it right that this principle of reciprocity should be extended to all articles admitted by Canada free of duty from the United States.

In those days, the Address in answer to the Royal Speech was no mere echo of the statements and recommendations contained in that document. The occasion was frequently seized upon as a favorable one for an exposition of public grievances. On a number of points, the Address, on this occasion, differed from the Speech to which it was an answer. It went so far as directly to rebuke the Lieutenant Governor for the reference he had made to Lower Canada. “We deeply regret,” said the Address, “that your Excellency has been advised to animadvert upon the affairs of the sister Province, which has been engaged in a long and arduous struggle for an indispensable amelioration in their institutions and the manner of their administration. We respectfully, but firmly, express our respect for their patriotic exertions; and we do

acquit them of being the cause of any embarrassment and dissensions in the country."

It was a subject of frequent complaint, in both the Canadas, that the good intentions of the Imperial Government were thwarted by the agents selected to execute the Royal wishes. Mr. Mackenzie introduced a series of resolutions making a complaint of this nature; and after it had been verbally amended, on motion of Mr. Perry, acting, no doubt, under the suggestion of Mr. Speaker Bidwell, an Address to the Lieutenant Governor was founded upon it. The Address asked for any dispatches that might serve to explain the contradiction between the Royal instructions relative to the dismissal of public officers when they cease to give a conscientious support to the measures of the government, and the retention of persons—Mr. Hagerman was mentioned in the original resolution—as legal advisers of the Crown and members of the Executive Council, in spite of their opposition to many of the Reforms sanctioned by the Earl of Ripon, as Colonial Secretary. The case of Mr. Hagerman, whose name was not mentioned, was described as glaring in the extreme; since he had desired to send back the famous dispatch of Lord Goderich, afterwards Earl Ripon. The Solicitor General, during the debate, denied that he had gone to this length; but the House, by a majority of ten, refused to accept his statement as correct. "We cannot reconcile with the principles of our Constitution," the Address reads, "the appointment and continuance in office of persons, as counsellors and advisers of the government, who are known to stand opposed to the wishes of the

people and the recommendations of His Majesty, on great leading questions of Reform, and who do not possess the confidence of the people, and acquiesce in their general political views and policy, as expressed through their representatives." The appointment of Mr. William Morris, whose name was struck out of the amended resolutions, to a seat in the Legislative Council, after he had, as a member of the other branch of the Legislature, violently denounced the dispatch of Lord Goderich, was condemned as contrary to the recommendations of the Canada Committee of the House of Commons, in 1828, and the declared principles of the Imperial Government; and as calculated to increase the obstacles to Reform. The union of legislative and judicial powers in the Chief Justice, who continued to be Speaker of the Legislative Council, and the presence in that branch of the Legislature of the Bishop of Regiopolis and the Archdeacon of York, were spoken of in terms of censure. Mr. Mackenzie accepted the amendment, and declared it preferable to his own resolution.

In the course of the debate on this Address, Solicitor General Hagerman professed to give a cordial assent to the principles of Lord Goderich's dispatch, which, when laid before the House he had denounced in unmeasured terms; and he still charged his opponents with revolutionary designs because they demanded the application of the principles laid down in that state document.

Sir Francis Bond Head, unused to government, had been instructed by the Colonial Secretary in the rules of official etiquette and courtesy which he was to

observe. And in answering this Address he did not assume that objectionable tone which shortly afterwards marked his utter unfitness for the position to which he had been appointed. In regard to the removal of the Crown officers there was a dispatch marked "confidential," and which for that reason he did not produce. He had no means of explaining the continuance in office of Solicitor General Hagerman, further than that his reinstatement was the result of exculpatory evidence offered by that person, while in England. The Lieutenant Governor could require, and, if necessary, insist on the resignation of officials who might openly or covertly oppose the measures of his government; but he would not take a retrospective view of their conduct, or question the wisdom of what had been done by his predecessors, in this respect. The same rule he applied to appointments made to the Legislative Council; as he could not undertake to judge of the principles that guided his predecessor. Lord Ripon, he considered, in giving his opinion of the presence of the Roman Catholic Bishop and the Anglican Archdeacon in the Legislative Council, had expressed no intention in reference to them. Sir Francis confessed, with maladroitness, to the existence of dispatches which he did not feel at liberty to communicate; besides that already mentioned, another dated Sept. 12, 1835, and containing observations on the Grievance Report. He asked from the House the consideration due to a stranger to the Province, unconnected with the differences of party, entrusted by his Sovereign with instructions

"to correct, cautiously, yet effectually, all real grievances," while maintaining the Constitution inviolate.

During this session an event occurred which, though Mr. Mackenzie was not directly connected with it, had an important bearing on the general course of affairs that was to lead to the armed insurrection, in which he was a prominent actor. It is necessary to a clear comprehension of all the circumstances which produced this crisis, that the event should be briefly related.

On the 20th of February, 1836, Sir F. Bond Head called three new members to the Executive Council;* Messrs. John Henry Dunn, Robert Baldwin, and John Rolph.† The two latter were prominent members of

* Sir F. B. Head was pressed by one of the old members of the Council to appoint some additional members. The number, as it stood, was only sufficient for a quorum, and if one fell sick no business could be done. Besides, Mr. Peter Robinson had charge of the public lands, and, as an Executive Councillor, was placed in the invidious position of having to audit his own accounts. When Sir F. B. Head arrived, it was believed that he was going to reform the abuses complained of, and effect the desired changes in the government. Handbills, on his arrival, were foolishly placed on the walls of the city, describing the new Lieutenant Governor as a "tried Reformer." The Tories were shy and distrustful. They petitioned the King against the first act of his administration. Had they not taken up this hostile position, he afterwards declared, he never would have gone to the other party for material to enlarge his Council; and he would have appointed neither Mr. Baldwin nor Dr. Rolph. But he soon threw himself completely into the arms of the Family Compact; adopted their designs, echoed their opinions of their opponents, and repeated their worst calumnies, in official dispatches and other state documents.

† Sir Francis Bond Head, in *An Address to the House of Lords against the Bill before Parliament for the Union of the Canadas*, in 1840, says that when he offered office to Mr. Baldwin, the latter replied that "he considered as absolutely necessary the assistance of Dr. Rolph and of Mr. Bidwell;" and if this statement be correct, the matter was compromised by one being taken and the other left. Rolph became a member of the Executive Council, and Bidwell was left out.

the Liberal party, and Mr. Dunn had long held the office of Receiver General. Their appointment was hailed as the dawn of a new and better order of things, and the Lieutenant Governor professed, with what sincerity will hereafter appear, a desire to reform all real abuses. But it was not long before this hope was disappointed. On the 4th March these gentlemen, with the other three members of the Executive Council,* resigned. They complained that they had incurred the odium of being held accountable for measures they had never advised, and for a policy to which they were strangers. It shows the irresistible force which the popular demand put forward by Mr. Mackenzie and others for a responsible administration carried with it, that the three Tory members of the Council should have joined in the resignation. The current was too strong to leave a reasonable hope of their being able to make way against it. But what they shrunk from undertaking, Sir Francis Bond Head was to try, by the aid of more supple instruments, to accomplish. The six councillors, on tendering their resignations, insisted on the constitutional right of being consulted on the affairs of the Province generally, and resorted to some elaboration of argument to prove that their claim had an immovable foundation in the Provincial charter.

The Lieutenant Governor, on the other hand, contended that he alone was responsible, being liable to removal and impeachment for misconduct, and that he was at liberty to have recourse to their advice only when he required it; but that to consult them on all

* Messrs. Peter Robinson, George H. Markland, and Joseph Wells.

the questions that he was called upon to decide would be "utterly impossible." He, too, attempted to establish his position by reference to the constitutional charter and other instruments; but the House charged him with garbling and misquoting. His political theory was very simple. "The Lieutenant Governor maintains," he said, "that responsibility to the people, who are already represented in the House of Assembly, is unconstitutional; that it is the duty of the Council to serve him, not them." A doctrine that was soon to meet a practical rebuke from his official superiors in England.

The answer of His Excellency was sent to a select committee of the House, who made an elaborate Report, in which the Lieutenant Governor's treatment of his Council was censured in no measured terms. The increasing dissatisfaction which had been produced by the maladministration of Lieutenant Governors Gore, Maitland, and Colborne, was said to have become general. The new appointments to the Executive Council of liberal men, made by Sir Francis Bond Head, were stigmatized as "a deceitful manœuvre to gain credit with the country for liberal feelings and intentions when none existed;" and it was declared to be matter of notoriety that His Excellency had "given his confidence to, and was acting under, the influence of secret and unsworn advisers." "If," they said, "all the odium which has been poured upon the old Executive Council had been charged, as His Excellency proposes, upon the Lieutenant Governors, their residence [in the Province] would not have been very tolerable, and their authority would become weakened

or destroyed." The authority of Lieutenant Governor Simcoe, whose appointment followed close after the passing of the constitutional Act of 1791, was adduced to show that "the very image and transcript" of the British constitution had been given to Canada. The Lieutenant Governor was charged with having "assumed the government with most unhappy prejudices against the country," and with acting "with the temerity of a stranger and the assurance of an old inhabitant." Much warmth of feeling was shown throughout the entire Report, and the committee gave it as their opinion that the House had no alternative left "but to abandon their privileges and honor, and to betray their duties and the rights of the people, or to withhold the supplies."* "All we have done will otherwise," it was added, "be deemed idle bravado, contemptible in itself, and disgraceful to the House."

The House adopted the Report of the committee, on a vote of thirty-two against twenty-one; and thus committed itself to the extreme measure of a refusal of the supplies. To the resolution adopting the Report a declaration was added that a responsible government was constitutionally established in the Province.

In the debate on question of adopting the Report, the Tories took the ground that responsible govern-

* The object of the Assembly, in stopping, or rather restricting, the supplies, was to embarrass the government. They did not go to the extent of refusing all money votes, but granted different sums for roads, war losses, the Post-office, schools, and the improvement of navigation. Twelve of these bills Sir Francis B. Head reserved, in the hope that he would be enabled to embarrass the machinery of the Legislature, if they were vetoed in England. But, much to his disgust, they were assented to by his Sovereign. When he received the dispatch containing the assent to these bills, he at first thought of suppressing it, but on sober second thought he transmitted it to the Legislature.

ment meant separation from England. "The moment," said Mr. McLean, "we establish the doctrine in practice, we are free from the mother country." Assuming that the Imperial Government would take this view of the matter, Solicitor General Hagerman covertly threatened the majority of the House with the vengeance of "more than one hundred and fifty thousand men, loyal and true." The temper of both parties was violent, for already were generating those turbulent passions of which civil war was to be the final expression.

In times of excitement the slightest incident may add fuel to the flames; and men, rendered keenly sensitive by the endurance of wrongs, readily resent the most distant approach to insult. Sir Francis B. Head, having received an Address, adopted at a public meeting of the citizens of Toronto, assured them that he should feel it his duty to reply with as much attention as if it had proceeded from either branch of the Legislature; but that he should express himself "in plainer and more homely language." This was regarded as a slight to the inferior capacity of the "many-headed monster," and was resented with a bitterness which twenty years were too short to eradicate. The manner of the Lieutenant Governor gave as much offence as his words. He met the deputation, surrounded by a crowd of military officers; and the members fancied that he pried impudently into their faces, as if he regarded them with the sort of curiosity that one would look upon a collection of orang outangs.

They left the Vice-regal residence, inspired by a

common feeling of indignation, at what they conceived to be intentional slights put upon them. It was soon resolved to repay the official insolence with a rejoinder. Drs. Rolph and O'Grady prepared the document. Instead of being drawn up in the slipshod style of the Report of the House Committee, its biting sarcasm betrayed a master hand. "We thank Your Excellency," said the opening sentence, "for replying to our Address, 'principally from the industrious classes of the city,' with as much attention as if it had proceeded from either branch of the Legislature; and we are duly sensible in receiving Your Excellency's reply, of your great condescension, in endeavoring to express yourself in plainer and more homely language, presumed by Your Excellency to be thereby brought down to the lower level of our plainer and more homely understandings." They then pretended to explain the deplorable neglect of their education by the maladministration of former governments of the endowment of King's College University, and the many attempts of the Representative Chamber, baffled by the Crown-nominated Legislative Council, to apply three millions of acres of Clergy Reserves to the purposes of general education. "It is," they added, "because we have been thus maltreated, neglected, and despised, in our education and interests, under the system of government that has hitherto prevailed; that we are now driven to insist upon a change that cannot be for the worse." The change they desired to bring about was "cheap, honest, and responsible government." The responsibility of the Lieutenant Governor to a government four thousand

miles distant, "and guarded by a system of secret dispatches, like a system of espionage," which kept in "utter darkness the very guilt, the disclosure of which could alone consummate real and practical responsibility," had never, they declared, "saved a single martyr to Executive displeasure." Robert Gourlay still lived in the public sympathy, "ruined in his fortune, and overwhelmed in his mind, by official injustice and persecution; and the late Capt. Matthews, a faithful servant of the public, broken down in spirit, narrowly escaped being another victim. The learned Mr. Justice Willis struggled in vain to vindicate himself and the wounded justice of the country; and the ashes of Francis Collins and Robert Randal lie entombed in a country in whose service they suffered heart-rending persecution and accelerated death. And even Your Excellency has disclosed a secret dispatch to the minister, in Downing Street (the very alleged tribunal of justice), containing most libellous matter against William Lyon Mackenzie, Esq., M. P. P., a gentleman known chiefly for his untiring services for his adopted and grateful country. We will not wait," they plainly told the Lieutenant Governor, "for the immolation of any other of our public men, sacrificed to a nominal responsibility, which we blush we have so long endured to the ruin of so many of His Majesty's dutiful and loyal subjects." After an elaborate argument, to prove the necessity of a responsible administration, the rejoinder concluded by what Mr. Mackenzie, in a manuscript note he has left, calls the first low murmur of insurrection. "If Your Excellency," the menace ran, "will not govern us upon

these principles, you will exercise arbitrary sway, you will violate our charter, virtually abrogate our law, and justly forfeit our submission to your authority." There was not yet, however, the most distant idea that the final issue would be open insurrection.

The rejoinder being ready,* the next question was how it was to be delivered. Such a document was quite irregular in official correspondence, and a violation of official etiquette. It was arranged that Mr. James Lesslie and Mr. Ketchum should drive in a carriage drawn by a noble Arabian horse to Government House, deliver the document, and retire before there was time for any questions to be asked. They did so, simply saying they came from the deputation of citizens.

Sir F. Bond Head did not even know who were the bearers of the unwelcome missile. He sent it, in a passion, to Mr. George Ridout, on the speculation that he had been concerned in the delivery. Mr. Ridout sent it back. It was in type before being dispatched, and scarcely had it reached the Governor when a printed copy of it was in the hands of every member of the House. The Lieutenant Governor was puzzled, half stupefied, and well nigh distracted.

On the 14th March, four new Executive Councilors were appointed, consisting of Messrs. Robert Baldwin Sullivan, William Allan, Augustus Baldwin, and John Elmsley. The latter had resigned

* It was signed by Jesse Ketchum, James H. Price, James Lesslie, Andrew McGlashan, James Shannon, Robert McKay, M. McLellan, Timothy Parsons, William Lesslie, John Mills, E. T. Henderson, John Deel, John E. Tims, William J. O'Grady.

his seat in the Executive Council some years before, on the ground that he could not continue to hold it and act independently as a Legislative Councillor, though the principle of dependence had never before been pushed to the same extent as now. Three days after these appointments were announced, the House declared its "entire want of confidence," in the men whom Sir Francis had called to council.* The vote was thirty-two against eighteen. An Address to the Lieutenant Governor embodying this declaration of non-confidence, and expressing regret that His Excellency should have caused the previous Council to tender their resignation, while he declared his continued esteem for their talents and integrity, was subsequently passed on a division of thirty-two against nineteen. The Address requested His Excellency to take immediate steps to remove the obnoxious Council. In reply he said he felt guiltless of having caused the excited state of public feeling in the Province, and was not at all disposed to listen to

* While these proceedings were going on, the people were not idle spectators. A petition came from Pickering township, complaining that the Lieutenant Governor had "resolved to hold the powers entrusted to him by his Sovereign, to reduce British subjects to a state of vassalage," and praying the House to address His Excellency to remove his councillors. As soon as the Executive Council resigned, Sir Francis Bond Head wrote to Lord Glenelg, under date, Toronto, 22d March, 1836, "Mr. Mackenzie and his party, at an immense expense, forwarded to every part of the Province" copies of a circular, to which was annexed "a printed petition to the House of Assembly, which only required the insertion of the name of the township and of the subscribers." This is probably correct, but the authority of Sir Francis Bond Head is never reliable when he is speaking of persons whom he considered it his sacred duty to revile. It is certain a number of petitions of the same purport as that from Pickering were presented to the House.

the advice of the House, on whose good sense he, at the same time, affected to be ready to rely.

The popular party had unintentionally given an incidental sanction to the assumptions of the Lieutenant Governor, founded on the dispatch of Lord Glenelg, on the dismissal of the Crown officers, in 1833. Their removal was the result of their opposition, in the Legislature, to the expressed wishes of the Imperial Government. In procuring the annulment of the bank charters, Mr. Mackenzie was not sustained by the party with whom he acted, and by whom the dismissal of the Crown officers was gratefully accepted. It was the misfortune of Sir Francis Bond Head to be required to carry out the principle of complete subordination of all the officers of the local government to the Downing Street authorities, at a time when the disposition of the colonists to repudiate that system and to insist on the responsibility of the Executive Council to the Legislative Assembly, had become irresistible. But he showed the greatest reluctance to deviate from this course after he received a confidential dispatch from Lord Glenelg,* laying it down as a principle that in the British American Provinces the Executive Councils should be composed of individuals possessing the confidence of the people. Every Canadian who had advocated this principle had been set down by Sir Francis as a republican and a traitor, and the principle itself he had denounced as unconstitutional.

Sir Francis Bond Head conceived his mission to be to fight and conquer what he called the "low-bred

* Dated September 30, 1836.

antagonist democracy." He thought the battle was to be won by steadily opposing "the fatal policy of concession," keeping the Tories in office, and putting down the party which he indifferently designated Reformers, Radicals, and Republicans. He thought himself entitled to claim credit for having by his reply to "the industrial classes of Toronto," caused a scene of violence at a public meeting, at which, he relates to Lord Glenelg with much satisfaction, "Mr. Mackenzie totally failed in gaining attention," and Dr. Morrison, who was then Mayor of Toronto, "was collared and severely shaken." "The whole affair," he adds, "was so completely stifled by the indignation of the people, that the meeting was dissolved without the passing of a single resolution."

The Lieutenant Governor, who had completely thrown himself into the hands of the Family Compact, had other schemes for influencing the constituencies in favor of one party and against another; for he was not long in resolving to dissolve a House that voted only such supplies as would subserve the purposes of the majority, while it withheld others of which the want tended to embarrass the machinery of the government.* The avowed object of reserving the twelve money bills was to deprive the majority of the House of what might be so distributed as to conduce to their re-election. On motion of Mr. Perry the House had adopted the vicious principle of making the members of the Legislature a committee for expending the £50,000 road money granted; and there was some point in the observation of Sir F. B. Head

* The dissolution took place on the 28th May, 1836.

that this member's name appeared too often in connection with such expenditures. But although the reservation of these money bills did not lead to their being vetoed, the effect on the constituencies was the same. The elections were over before it was known that the Royal assent had been given, in opposition to the recommendation of the Lieutenant Governor, who takes care to make it understood that, on this question, he had the concurrence of his Council. Before the elections were announced, steps, of which Sir Francis B. Head appears to have been cognizant, were taken for procuring petitions in favor of a dissolution of the House. Perhaps they were suggested by himself or his Council. Certain it is that he had timely warning of petitions in process of being signed, some time before they were presented. The Tory press divided the country into two parties: one of whom was represented to be in favor of maintaining the supremacy of the British Crown in the Province, and the other as being composed of traitors and republicans. This representation was transferred from partisan newspapers to official dispatches and replies to admiring addresses. Timid persons were awed into inactivity; not thinking it prudent to appear at the polls, where their presence would have caused them to be branded as revolutionists. The Tories subscribed largely for election purposes; votes were manufactured and violence resorted to.*

* "The circumstances under which they (the members of the House) were elected, were such as to render them peculiarly objects of suspicion and reproach to a large number of their countrymen. They are accused of having violated their pledges at the election." "In a number of instances, too, the

By such means was Sir F. B. Head enabled to boast of the perilous success he had achieved. He had done everything upon his own responsibility; having never consulted the Imperial Government, to whose directions he professed to feel it his duty to pay implicit obedience. He had written to Lord Glenelg, informing him that it was his intention to dissolve the House; and instructing him—as if he were the superior—to send him no orders on the subject. Nor was this the only occasion on which he undertook to transmit his orders to Downing Street. When, in the spring of 1836, Mr. Robert Baldwin, one of his late councillors, started for England, Sir F. B. Head described him to Lord Glenelg as an agent of the revolutionary party, and expressed a wish that he might not be received at the Colonial Office; adding a suggestion that if he should make any application he should be effectually snubbed in a letter in reply, which should be transmitted to Canada for publication. He denounced to the Colonial Minister the project of surrendering to the control of the Canadian Legislature the casual and territorial revenues; being desirous of keeping the Executive, as far as possible, financially independent of the popular branch of the Legislature. He quarrelled with the Commission of Inquiry, which had been sent to Canada, headed by Lord Gosford, for re-

elections were carried by the unscrupulous exercise of the influence of the government, and by a display of violence on the part of the Tories, who were emboldened by the countenance afforded to them by the government; that such facts and such impressions produced in the country an exasperation and a despair of good government, which extended far beyond those who had actually been defeated at the poll.”—*Earl Durham's Report on the Affairs of British North America.*

commending that the Executive Council should be made accountable to public opinion; and assured the Imperial Government that the project was pregnant with every species of danger. When he received a confidential dispatch from Lord Glenelg, acquainting him that this course had been determined on, he became half frantic; and on the publication of a dispatch from Sir Archibald Campbell, Lieutenant Governor of New Brunswick, directing him to increase the number of his councillors, and to select them from persons possessing the confidence of the people, he vented his disappointment by declaring that "the triumph which the loyal inhabitants of our North American colonies had gained over the demands of the Republicans was not only proved to be temporary, but was completely destroyed." He carried his indiscretion to an inconceivable extent. The Province, he openly declared, was threatened with invasion from a foreign enemy; and he proceeded to throw out a defiant challenge to this imaginary foe. "In the name of every regiment of militia in Upper Canada," he said, "I publicly promulgate, let them come if they dare." This piece of audacious folly made him the subject of a remarkable practical joke. A deputation, headed by Mr. Hincks, waited on him to inquire from what point the attack was expected; the inference being that they desired to know in order that they might be prepared to repel the invaders.* If the Lieutenant

* "We, the undersigned electors of the City of Toronto," the address ran, "having read in your Excellency's answer to the address of certain electors of the Home District the following language:—'They (the people of Toronto) are perfectly aware that there exist in the Lower Province, one or two indi-

Governor did not see that he was quizzed, he felt thrust into a corner; and his face crimsoned with indignation at the impertinent inconvenience of the inquiry. His dispatches contain a mixture of insolent dictation, intended for advice, and a craven fear of the disapproval of his superiors.

The fate of British dominion in America, he assured the Colonial Minister, depended upon his ruinous advice being taken, and his mad acts sustained. Several times it was necessary to curb him; and once he made an inferential rather than a direct tender of his resignation. He dismissed Mr. George Ridout from the offices of Colonel of the Militia, Judge of the District Court of Niagara, and Justice of the Peace, on the pretence that he was an active member of the Alliance Society, who had issued an address on the subject of the resignation of the late Executive Council, which contained words personally offensive to the Lieutenant Governor;* and when this charge was

viduals who inculcate the idea that this Province is about to be disturbed by the interference of foreigners whose powers and whose numbers will prove invincible. In the name of every Regiment of Militia in Upper Canada, I publicly promulgate, *'Let them come if they dare.'* We do not doubt the readiness with which would be answered upon any emergency your appeal to the Militia, which appeal we are satisfied would not have been made without adequate cause. In a matter so seriously affecting the peace and tranquillity of the country and the security of its commerce, we beg to learn from your Excellency from what quarter the invasion is alleged to be threatened."

* The document, to which exception was taken, is subjoined; the particular words deemed most offensive being in those in italics:—"The difference between Sir Francis Bond Head and the House of Assembly, growing out of the resignation of the late Executive Council, has led to a dissolution of Parliament. The unanimous representation of the late Executive Council, severally signed by the Hon. Peter Robinson, Hon. G. H. Markland, Hon. Joseph Wells Hon. J. H. Dunn, and Robert Baldwin and John Rolph, Esquires,

proved to the satisfaction of Lord Glenelg to be groundless, he refused to obey the order of the Colonial Minister to restore Mr. Ridout to office. When the only charge made against Mr. Ridout had been disproved, he trumped up seven others—none of which had been communicated to Mr. Ridout for explanation—taking the ground that he neither deemed an inquiry necessary, nor that the person dismissed should be made acquainted with the grounds of his dismissal. On both these points the Lieutenant Governor met the opposition of Lord Glenelg.* He refused to obey the instructions of the Colonial Secretary to appoint Mr. Marshall Spring Bidwell to a judgeship in the Court

we declare to be moderate, just, and constitutional. The refusal of Sir F. B. Head to allow the Executive Council to discharge the duties obviously belonging to their office, and imposed by their oath, of advising the Lieutenant Governor upon our public affairs, preparatory to his final and discretionary action upon those affairs, betrays a disposition as a stranger to conduct the government in an arbitrary, unsafe, and unconstitutional manner, which the House of Assembly, unless traitors to us, could not sanction or grant supplies to uphold. The fifty-seven Rectories could not by law have been established without the advice and consent of the Executive Council of the Province; and their recent establishment and endowment with their exclusive ecclesiastical and spiritual rights and privileges, is a practical and melancholy proof of the indispensable necessity of a good and honest Executive Council, alike possessing the confidence of the King and the people. *It is our duty solemnly to assure you, that the conduct of Sir Francis Bond Head has been alike a disregard of constitutional government and of candor and truth in his statements to you.* We therefore appeal to you most earnestly not to abandon your faithful Representatives at the approaching contest, but by your manly conduct prove yourselves worthy of good government and honest public servants." So far from Mr. Ridout being a member of the Alliance Society, he had opposed its establishment, when Mr. Mackenzie proposed the resolutions on which it was based.

* "I am unaware," wrote Lord Glenelg to Sir F. B. Head, April 5, 1837, "of so much as a single instance in which a public officer has been dismissed as a punishment, and on the ground of misconduct, without the most explicit disclosure to him of the reasons by which his superior vindicated such an exercise of authority.

of Queen's Bench; and when he had done his best to drive men into rebellion he claimed credit for his foresight in having pointed out their traitorous intentions.

Messrs. Mackenzie, Bidwell, and Perry, were among the members of the popular party who failed to secure a re-election. It was the first election at which the county of York had been divided into Ridings. Mr. Mackenzie stood for the Second Riding, having for opponent, Mr. Edward Thompson, a negative sort of man, without decision enough to make him a very decided partisan.* As he had not energy enough to be bitter, many timid voters, alarmed by the cries of revolution raised by the Lieutenant Governor and the Family Compact, thought that if they voted at all, it would be safest, if not best, to vote for him. He obtained four hundred and eighty-nine votes; Mackenzie, three hundred and eighty-nine. Just before the election, there had been a sale of lots by the Government, at the mouth of the River Credit. They were mostly divided into quarter acres, and were sold for \$32 each. Some of the patents were issued during the election; others only a few days before. But this did not turn the scale of the election; for in the list of voters, I find only four who voted for Mr. Thompson on lots at Port Credit. About an equal number of votes offered for Mr. Mackenzie were turned away on what appear to be frivolous grounds. If such great pains had not been taken by Mr. Thompson's friends to prevent a scrutiny, there might, looking at the disparity in the number of votes received by the two

* He passed for a modified Liberal at the election, which was a great advantage to him; and acted with the Family Compact when he got into the House.

candidates, have been some reason for concluding that Mr. Mackenzie was beaten by a majority of legal votes. Nothing but a scrutiny could have settled the point in dispute. There was said to have been a suspiciously large increase in the number of voters.

The unscrupulous influence of the Government in the election, attested by the Earl of Durham's Report, is beyond question. Streetsville was the polling place for the Second Riding of York; and violence was apprehended on the day of nomination. A procession of Orangemen, an organization with whom Mr. Mackenzie was on ill terms, took place; the "Boyne Water," "Protestant Boys," and "Croppies Lie Down," being played by the band. They afterwards drew up in line at a point where it was necessary for Mackenzie to pass. Several were provided with loaded fire-arms, on both sides. One Switzer, a man of enormous muscular power, led the way through the lines; and Mr. Mackenzie followed unharmed. He delivered a speech much more calculated to excite than to soothe the hostile crowd, and which shows that the idea of the possibility of England losing the Province by misgovernment was floating in his mind.*

* From this speech, delivered on the 27th June, I give an extract: "When I last met you here I told you the causes of our difficulties, and showed you how far they might be removed by the concessions or interposition of the British Government. I regret to say that all the efforts of the Reformers during the last two years have only gone to show that the Government is above all law; that a person, living in one of the streets of London is the autocrat of Upper Canada; and that the people's representatives have neither power nor influence to promote education, encourage trade, redress grievances, secure economy, or amend your laws and institutions. I have been diligent in the Legislature; every proposition calculated to make you happier I have supported; and whatever appeared to me to be against popular government and

It was said that he was opposed by Bank as well as Government influence; and this seems not improbable, since he had procured the disallowance of two bank charter bills, when he was in England.* Complaints

the permanent interests of the many I have opposed, please or offend whom it might. The result is against you. You are nearer having saddled on you a dominant priesthood; your public and private debt is greater; the public improvements made by Government are of small moment; the chartered Banks and the Canada Company have you more and more under their control; the priests of the leading denominations have swallowed bribes like a sweet morsel; the revenues of your country are applied without your consent; the principle that the Executive should be responsible to public opinion and acceptable to the people is denied to your use, both by the Governor here, and by his employers elsewhere; the means to corrupt our elections are in the hands of the adversaries of popular institutions, and they are using them; and although an agent has been sent with the petitions of the House of Assembly to the King and House of Commons, I dare not conceal from you my fears that the power that has oppressed Ireland for centuries will never extend its sympathies to you. It will seek to elevate the few, who are suitable instruments for your subjugation, in order that (like the Canada Company, Thomas Clark's £100,000 estate, John McGill's £50,000, and I might add, Colonel Talbot's vast accumulation) such men may will, or take their wealth elsewhere, to impoverish you. Look into the history of our race:—'Ages pass, and leave the poor herd, the mass of men, eternally the same—hewers of wood and drawers of water.' I have taken less pains to be elected by you this time than I ever did before, and the reason is, I do not feel that lively hope to be able to be useful to you which I once felt. On this subject I spoke my mind with great frankness at Cooks-ville, when I told you that the country was beginning to lose all hope from Reform majorities under this government, and that I feared the result of the elections would show that it was so. We are, of course, to wait for the answer to our petitions to England. If it be favorable, it will be our duty to uphold the system of monarchical government, modified, of course, by the removal of that wretched playhouse, the Legislative Council, together with the mountebanks who exhibit on its boards. If the reply be unfavorable, as I am apprehensive it will, for the Whigs and Tories are alike dishonest, contending factions of men who wish to live in idleness upon the labors of honest industry then the Crown will have forfeited one claim upon British freemen in Upper Canada, and the result it is not difficult to foresee."

* One of these related to the Commercial Bank of the Midland District; and the story told is that, about a month previous to the election, the managers of the branch of this bank, at Toronto, sent for Attorney General Hagerman,

of bribery were also made; and if they were well founded, it is reasonable to suppose that the money formed part of the official election fund subscribed in Toronto. After the desperate policy resorted to for the purpose of ejecting Mr. Mackenzie from a previous Legislature, it is not to be supposed that any effort would be spared to prevent his return. There can be no doubt that the improper use of official influence was the main cause of the election resulting as it did. Besides the intimidation so generally practised, at these elections, the sheriff of the county, Mr. Jarvis, was at Streetsville, interfering in a manner that had been strongly condemned years before by Lord Goderich. He insisted on swearing Mr. Mackenzie to his qualification, a second time, till the Returning Officer, Mr. Hepburn, who was a strong partisan of the Family Compact, was obliged to interfere, and declare that the qualification had already been sufficiently attested. I do not wish to repeat a possible calumny; and I should not have ventured to give new currency to the statement that the Lieutenant Governor had thrown out hints that a worse thing than a riot might happen, had he not, in his official communications with the Colonial Office, already taken credit for having aroused a feeling that produced violence at a public meeting.

took him into the bank parlor, and Mr. John Ross the cashier, in presence of the others, handed him a large number of notes due to the bank by persons living in this constituency, and gave him distinct and positive instructions to be very lenient with every debtor who would pledge himself to vote against Mackenzie, but "to put the screws on" every one of them who refused to pledge himself. It was said that a like policy was pursued by the Bank of Upper Canada, whose amended charter Mr. Mackenzie had caused to be vetoed in England. But stories of this kind must always be received with some degree of allowance.

He himself rode out to the polling place during the election. A clergyman offered a vote, to the validity of which he refused to make oath;* and the voters were sharply questioned on both sides.

Mr. Mackenzie's mortification at a result which he

* The following scene occurred: The Reverend Thomas Phillips, D.D., Rector of Etobicoke, Chaplain to the House of Assembly, late Professor in King's College, Toronto, presented himself and offered to vote. After his property had been described and entered on the poll-book, the following inquiry was made:

Mr. Mackenzie.—"I think I saw your reverence standing in the rain the other day, up to the ankles in mud, waiting to edge in a non-resident vote for Mr. Draper, I dare say you have been going the rounds of the county, since, to uphold 'the Constitution,' and as it is probable you have your deed about you, I wish you would produce it.

Dr. Phillips.—(Producing his deed.)—"I have a good title, or I would not have taken the pains to come here.

Mr. Mackenzie.—"I find that you have bought this half or quarter acre of a sand bank for £8, a year's interest on which is eight shillings. Are there any buildings?

Dr. Phillips.—"There are none.

Mr. Mackenzie.—"No buildings! How then is your income obtained?

Dr. Phillips.—"I rented the property last year for a dollar; but, this year, the times are so bad that I have left the woman have it for nothing.

Mr. Mackenzie.—"You have been paid for teaching others what the English Constitution is for a number of years; you have known what a 40s. freeholder means for these forty years back at least; you belong to an order who live sumptuously at the expense of the community, and enjoy fat rectories, the value of which is enhanced by the farmer's labor, and you are here to-day to uphold your order by voting me out of the House. I shall make your own conscience the umpire between us—the inward monitor shall decide. Did you, when you came here, for one moment believe you had a right to vote? Did you not rather hope to edge in a bad vote on account of the respectability of your personal appearance? If you think you are an elector of this Riding, take the constitutional oath as such, and then you may vote; but remember I'll look carefully into the matter next session.

Returning Officer.—"The oath is as follows:—

Dr. Phillips.—"Stop, stop, I won't swear to my freehold. Really, Mr. Mackenzie, you are too sharp upon me." And the reverend gentleman, who was brother-in-law of the Sheriff of the Home District, gathered up his papers, slunk down stairs, and deferred the oath and his vote till another occasion.

believed to have been brought about by improper means, was extreme. He retired with a few of his supporters to the house of Mr. Graham, in Streetsville, and wept like a child. Such was the power of sympathy, that several of the friends who were present, wept with him.

About the time of the commencement of the first Legislative session, which took place on the eighth of November, 1836, after the House had been elected, Mr. Mackenzie was taken dangerously ill of inflammatory fever, followed by inflammation of the lungs and pleura, brought on by his taking cold. It says much for his constitution that he was enabled to escape with his life from the hands of four doctors, Barclay, of the garrison, Widmer, Rolph, and Telfer, who dosed him with seventy or eighty grains of calomel; but it must be admitted that they were all men of repute in their profession. On the 23d of November, he was pronounced convalescent; but his ultimate recovery was slow.

Petitions against the return of any member, whose seat it is intended to contest, are required to be presented within fourteen days of the commencement of the session. On the 13th December—one month and five days after the session had commenced—Dr. Morrison, on producing medical certificates of Mr. Mackenzie's illness, obtained an extension of the time for presenting a petition against Mr. Thompson's return. Seven days were allowed. The regulation set aside was not one of law, but was simply a rule of the House. When the allegations in the petition had become known to the House, the majority evinced extreme

anxiety to avoid inquiry. Mr. Mackenzie, continuing to collect evidence and increase his list of witnesses, refrained from completing his recognizances as security for costs, till nearly the expiration of the time required: fourteen days after the presentation of the petition. New facts continued to come in, and, before handing in his list of witnesses, he wished to make it as complete as possible. But, by an entirely new construction of the law, he was held to have exceeded the time. Dr. Rolph showed the untenableness of the position which a partisan majority was ready to assume; but without avail. The petition was introduced on the 20th of December. It then, as required by law, lay on the table two days before being read; which last act, it was contended, completed the series which made up the presentation.* The House had

* On the 20th of January, 1837, a motion having been made for allowing one week to petition against the return of Mr. Charles Richardson from the town of Niagara, Dr. Rolph, seconded by Dr. Morrison, moved to add the following words:—"And that the above relief be also extended in like manner to such freeholders of the Second Riding of the county of York, as may within the same time desire to make their complaint of any wrongs to their elective franchise at the late general election; because, as the late petition of W. L. Mackenzie, complaining of the undue election and return of the sitting member for that Riding (Edward W. Thompson, Esq.) was in the terms of the forty-first rule of this House only 'brought in' on the 20th, and not 'read' till the 22nd of December, it could not till then be considered as fully presented; and because the Provincial Act, 4th Geo. IV., ch. 4, copied from the English Act 25th, George III., requires that 'whenever a petition complaining of an undue election or return of a member or members to serve in Parliament shall be presented to the House of Assembly, a day and hour shall, by the said House of Assembly, be appointed for taking the same into consideration, and notice thereof in writing shall be forthwith given by the Speaker to the petitioner or his agent;' according to which Act, in the invariable practice of the British House of Commons, the bringing up readily, and acting on such petition, and the giving of the said notice forthwith by the Speaker to the peti-

always acted on this construction; and it could not have one rule for itself and another for petitioners. The petition must therefore be considered as having been presented on the 22nd; and the fourteen days

tioner, are always immediately consecutive; and as this House have by their own practice put such a construction on the said Act, as not to consider such a petition presented, so as to require them to appoint a day and hour for taking the same into consideration, and giving forthwith the said notice to the petitioner, till the reading thereof on the second day after it is brought up, so the exigency of the said statute ought to be considered as satisfied by the said petitioner, by his computing his fourteen days from the said reading of the petition, as properly the time of the full Parliamentary presentation thereof; for the same construction by which the House is governed should, in justice and good faith, be applied to the petitioner, and not one construction be adopted for the House, and another construction for the people praying them for relief; from which it follows, that as the petition of Mr. Mackenzie was brought up on the 20th, and not read and acted on by the House till the 22nd, the petitioner's fourteen days reckoned from the 22nd, for entering into recognizances as security for costs, did not elapse till the 5th of January inclusive, although this House discharged the matter from the order of the day on the fourth, thereby giving the petitioner only twelve instead of fourteen days: and because the Speaker, in behalf of the House, did not, according to the exigency of the said Statute, give notice to the petitioner 'forthwith' on the 22nd, but omitted to do so till the 30th of December, thereby abridging the time of the notice, which would otherwise have put the petitioner and his attorney on their guard; and this House having themselves been therein guilty of laches, ought not rigidly to hold the said petitioner unexcused, even had he been guilty of laches too: and because this House adjourned from the 22nd of December till the 2nd of January, which interval, as the Speaker was not in attendance in his room at the House, ought not to be counted against the petitioner, who should have the benefit of fourteen sitting days, and not pursue the Speaker, as possibly might be needed in a future case, to his country seat, a distance of several hundred miles: and because Mr. Mackenzie had gathered from William Patrick, Esq., the Senior Clerk of this House, an officer of eighteen years' experience, that the computation of his fourteen days would be from the reading of the said petition: and because an investigation into grave charges affecting the freedom of election, and the invasion thereof by the Executive Government, and consequently affecting the constitution and character of this House, ought not to be lightly arrested, when the injured parties are willing and anxious to prosecute it, but should, on the contrary, be openly, fully, and honorably facilitated."

for completing the recognizances would not end till the 5th of January, though the order had improperly been discharged on the 4th; by which the time allowed by law had illegally been abridged. The Speaker was required, on the 22nd, to have given notice to the petitioner of the day fixed for taking the petition into consideration; but he failed to give it till the 30th, and for his default, the House, not the petitioner, was responsible. This argument was conclusive; but the vote was hostile, being thirty-two against fifteen.

It may seem strange that the presentation of a petition should include its reading—fixed by law at two days after its introduction—but the House must be judged by its own practice; and this is stated to have been uniformly different, on all previous occasions, from the course now taken. Mr. Jonas Jones, by whom the act relating to contested elections was brought in, did Mr. Mackenzie full justice on this occasion; and the fact deserves to be noted the more, since he was a political opponent of the petitioner. “He considered that Mr. Mackenzie had a right to count fourteen days from the time his memorial was read, and that he had neglected no requirement of the law;” and, on this ground, Mr. Jones voted against an amendment declaring that the order relating to the petition had been legally discharged, and that therefore it ought not to be restored. And Mr. Gowan, another political opponent of the petitioner, showed that, in the previous Parliament, he had been placed in precisely the same position as Mr. Mackenzie with respect to time; and that not a single member of the House, a large majority of whom were opposed to him in

politics, raised an objection. One thing is very clear—and it must be regarded as a circumstance of suspicion—the Government party was seriously anxious to avoid an investigation. If they had nothing to fear from a scrutiny, it is difficult to conceive what motive they could have had for departing from the uniform practice in order to avoid an investigation. The delay on the part of the petitioner arose entirely from the supposition that the time would not expire till the 5th of January.

He had the authority of the senior clerk of the House for believing that this was the uniform practice, and on the 22d December, the day on which it was contended the presentation of the petition was completed, Mr. McNab obtained fourteen days for the sitting member to prepare his list of witnesses—an implied confession that the fourteen days after which the petition would be acted upon commenced on that day. An amendment was added to this motion giving Mr. Mackenzie the same time to prepare the list of his witnesses, and yet the majority afterwards refused to give, for completing his recognizances, the time they had thus agreed upon. The motion to discharge the order for taking the petition into consideration was made by Mr. J. S. Boulton, who had taken an active part in the expulsion of Mackenzie from a former House, and of whose brother the petitioner had some years before obtained the dismissal from the Attorney Generalship.

There was the more reason for the inquiry, because the allegations in the petition included even the head of the government in charges of undue interference;

by making inflammatory replies to addresses, with a view of influencing the election;* by the issue of land-

* Here are a few specimens of the partisan and inflammatory replies given by Sir Francis Bond Head to addresses, and published with a view of influencing the elections generally. The following language was used in his reply to the Electors of Toronto:—

“GENTLEMEN:—No one can be more sensible than I am, that the stoppage of the supplies has caused a general stagnation of business, which will probably end in the ruin of many of the inhabitants of this city; and in proportion as the Metropolis of the Province is impoverished, the farmers’ market must be lowered; for how can he possibly receive money, when those who should consume his produce are seen flying in all directions from a land from which industry has been publicly repelled?

“In the flourishing Continent of North America, the Province of Upper Canada now stands like a healthy young tree that has been girdled, its drooping branches mournfully betraying that its natural nourishment has been deliberately cut off.”

Still dwelling with affected lamentation over the universal devastation caused by the withholding of his supplies, (the whole amount of which was less than £10,000,) he thus attempts to work the electors up to the highest pitch:—

“GENTLEMEN:—I have no hesitation in saying that another such a victory would ruin this country. But this opinion is hourly gaining ground; the good sense of the country has been aroused; the yeoman has caught a glimpse of his real enemy; the farmer begins to see who is his best friend: in short, people of all denominations, of all religions, and of different politics, rallying round the British Flag, are now loudly calling upon me to grant them constitutional redress.

“When the verdict of the country shall have been sufficiently declared, I will promptly communicate my decision.”

Denouncing the Reformers as agitators, he says:—

“GENTLEMEN:—My plans and projects are all contained and published in the instructions which I received from the King. They desire me to correct, without partiality, the grievances of this country; and it is because the agitators see I am determined to do so, that they are endeavoring to obstruct me by every artifice in their power. They declare me to be their enemy, and the truth is, I really am.”

But his Address to the Electors of Newcastle District, if possible, transcends the rest, and would alone, Dr. Rolph declared on the floor of the Legislature, have formed a solid foundation for his impeachment:—

“As your district has now the important duty to perform of electing representatives for a new Parliament, I think it may practically assist, if I clearly lay before you what is the conduct I intend inflexibly to pursue, in order that

patents to persons known to be hostile to the petitioner, without exacting a compliance with the conditions of purchase; besides, gross partiality on the part of the Returning Officer, and bribery on the part of the sitting member.* It would have been far better that these grave charges had been subjected to the test of a rigid scrutiny; because, if they were not well-founded, their refutation could most easily and most effectually have been made in this way. But by the choice of your new members, you may resolve either to support me or oppose me, as you may think proper.

"I consider that my character and your interests are embarked in one and the same boat. If by my administration I increase your wealth, I shall claim for myself credit, which it will be totally out of your power to withhold from me; if I diminish your wealth, I feel it would be hopeless for any one to shield me from blame.

"As we have, therefore, one common object in view, the plain question for us to consider is, which of us has the greatest power to do good to Upper Canada? or, in other words, can you do as much good for yourselves as I can do for you?

"It is my opinion that you cannot! It is my opinion that if you choose to dispute with me, and live on bad terms with the Mother Country, you will, to use a homely phrase, only quarrel with your own 'bread and butter.' If you like to try the experiment by electing members, who will again stop the supplies, do so, for I can have no objection whatever; on the other hand, if you choose fearlessly to embark your interests with my character, depend upon it I will take paternal care of them both.

"If I am allowed I will, by reason and mild conduct, begin first of all by tranquilizing the country, and as soon as that object shall be gained, I will use all my influence with His Majesty's Government to make such alteration in the land granting departments, as shall attract into Upper Canada the redundant wealth and population of the Mother Country. Men! women, and money are what you want, and if you will send to Parliament members of moderate politics, who will cordially and devoid of self-interest assist me, depend upon it you will gain more than you possibly can do by hopelessly trying to insult me; for let your conduct be what it may, I am quite determined, so long as I may occupy the station I now do, neither to give offence, nor to take it."

The reference to "bread and butter," in this Address, caused the House, elected in 1836, to be called the "Bread and Butter Parliament."

* See Appendix C.

this is the strongest evidence that many of them were true.

The decision of the House can scarcely excite surprise; for in a case of that peculiar nature, where either side of the case could be sustained by plausible arguments, a partisan majority, so violently opposed as they were to the petitioner, were not likely to be very scrupulous in their decision. Rightly or wrongly the petitioner was firmly convinced that he had been defrauded of his seat, and unfairly and illegally denied the liberty of proving how it had been done, and recovering what had been unwarrantably taken from him. He had a keen sense of personal injury, and when wrong done to him was also done to the public, he was slow to forget, and not too ready to forgive.

Dr. Duncombe, a member of the Liberal party in Upper Canada, who had held a seat in the Legislative Assembly, brought to the notice of the Colonial Secretary, Lord Glenelg, the complaints made against the Lieutenant Governor, in connection with this election, as well as against his general policy, and Sir Francis Bond Head was required to put in his defence.

CHAPTER XXI.

Mackenzie commences the Publication of *The Constitution* newspaper—Revolutionary Literature—Mock Trial of Sir Francis Bond Head, by a Committee of the House of Assembly—A Verdict of Acquittal did not allay the Public Discontent—Samuel Lount—The Fatal Resolution—Personal Insult added to Political Wrong—The Session of 1836-7—The House shows its Fear of an Appeal to the People by repealing the Act by which the Death of the King effected a Dissolution—Recklessness in Money Votes—The House sanctions the Creation of the Rectories—Turbulent Close of the Session—A Trade Appeal to Washington—Mr. Mackenzie goes to New York and purchases largely at the Trade Sales of Books.

ON the 4th July—a significant date—Mr. Mackenzie published the first number of *The Constitution* newspaper, the last issue of which appeared on the 29th November, 1837. The first and fourth page of the number for December 6th were printed, when at this stage it was brought to a violent close by the breaking out of the insurrection. The forms of type were broken up by the loyalist mob. When he brought *The Colonial Advocate* to a close, he was anxious to bid adieu to the harassing cares of Canadian journalism forever; but his political friends had, by their urgent entreaties, succeeded in inducing him to re-enter a career to which he had previously bid a final adieu. As editor of *The Constitution*, he became the organ of increasing discontent, and might easily be mistaken for the promoter of it. But, as always happens, the

press reflected public opinion with more or less accuracy, and already the Liberal portion of it had begun to speak in no muffled or ambiguous accents.*

We are entering upon the period of revolutionary ideas, expressed in speeches and rhymes, in newspapers and more solemn documents. Sir Francis Bond Head may be said to have produced the first specimens in inflammatory replies to addresses. What nearly always happens, on such occasions, happened on this. People found themselves committed to revolutionary ideas without the least suspicion of the extent to which they had gone, much less of what was to follow. Dr. Duncombe's letter to Lord Glenelg, charging the head of the Provincial Government with crimes which deserve impeachment, was referred to a committee of the House of Assembly. Every one knew in advance what the decision would be; but the proceeding was in the nature of an impeachment against Sir Francis Bond Head. For if he were found guilty, what was to be done? A Colonial Governor who misconducts himself, can only be tried in England; and unless there were a foregone conclusion to exculpate him from the charges made against him there could be no object in referring them.

* As an example, the following verse from "Rhymes for the People," which appeared in the *St. Thomas Liberal*, in August, may be cited:—

"Up then! for Liberty—for Right,
Strike home! the tyrants falter;
Be firm—be brave, let all unite,
And despots' schemes must alter.
Our King—our Government and laws,
While just, we aye shall love them,
But Freedom's Heaven-born, holier cause
We hold supreme above them."

to a committee. Dr. Rolph, assuming a serio-comic air, ridiculed the proceeding in a speech that will ever be memorable in Canadian history.*

* Dr. Rolph thus opened his battery on the miscalled treasury benches: 'Perhaps never did a day, wearing a more lowering aspect than this, dawn upon a British Colony! The glory of Provincial Monarchy, subjected ignominiously to these proceedings, is sullied beyond the power of your acquittal to redeem. Kings are sometimes tried. But nations are their judges. And when a people, goaded by injury, rise in their majesty to occupy the judgment seat, grand is the spectacle and vast the result! Popular sympathy generally mingles with the royal fate, and interest is transmitted with the very block which is dyed with their blood. But Kings even in Europe would dwindle into shadows, were they arraigned and tried before subordinate tribunals. Only imagine it; King William the Fourth tried by a select committee of the House of Commons! The proposition, Sir, shocks you. * * Impeachment, did I say? Oh no. They have doomed their illustrious personage to drink the cup of humiliation to the very dregs. The trial has not been conducted even before the Legislative Council, our Provincial House of Peers, who would, perhaps, regard a guilty participation little less than petit treason! It has not even been conducted before this honorable House, while the chair, Sir, was occupied by the Speaker, in whom is embodied, besides his Parliamentary phylacteries, the aggregate dignity of the Assembly, with the Mace, surmounted with a Crown, lying massively on the table, and defended by the Sergeant-at-Arms, girded with a sword and glowing with a chivalrous spirit. Such inquisitorial proceedings even over Royalty have, when clothed with stateliness and wrapt up in form, an imposing effect upon the eyes of the multitude, who are therefore the less likely to have their habitual reverence seriously impaired. But as if there were a conspiracy to bring His Excellency to the very dust, to shadow his dignity, mortify his pride, and republicanize the people, the investigation was repudiated by the House, and insultingly transferred to an ordinary committee! * * What will the British Government say to this impolitic proceeding? You who ought to be the first to keep within, at least, the bounds of impeachment in the Mother Country, have assumed to try, and either condemn or acquit the representative of the King! The Governor has been charged with interfering, to an alarming degree, with the purity and freedom of the late general elections. It is a charge of treason against the people. You are this day teaching them a lesson they will not easily forget. They find themselves, through the persons of their representatives, bringing under the ordeal of this inquiry the head of the Executive Government. If it is thought expedient to exempt him from civil and criminal responsibilities in the courts of justice, by what law do you now assume a jurisdiction, of which even the King's Bench is

The report, as every body had foreseen, was a verdict of acquittal; and a special verdict, it must be remarked, since it declared that the country owed the Vice Regal defendant a debt of gratitude for his patriotism and other inestimable qualities. But if Sir Francis Bond Head was pronounced a model Governor, by a partisan committee,* the public was not convinced, and the discontents were not allayed.

A considerable portion of Dr. Duncombe's letter, containing the charge against the Lieutenant Governor, on which the committee had pronounced, related to the Second Riding of York election, on which a committee had illegally been refused to Mr. Mackenzie. Nor was he allowed to produce before the committee, that pretended to inquire into these charges, the evidence which he was prepared to produce in support of them.

The case of Mr. Mackenzie, though perhaps not exactly like any other, cannot be regarded as having stood alone. The improper means taken by the Executive to influence the elections, did not affect him alone. Sir Francis Bond Head openly proclaimed

ousted? If found guilty, will you put him into the custody of the Sergeant-at-Arms? Will you as it were dethrone him—or bring him to the block? You may have an authority from the British Ministry to exercise this inquisitorial function; but I cannot even then acknowledge its wisdom. When you familiarize the people with these summary proceedings against Kingly functionaries, you make them compare their own strength and importance with that of their rulers. * * By the adoption of this report you acquit, and by the rejection of it, you convict Sir Francis Bond Head of the high crimes and misdemeanors brought against him."

* The committee first sat on the 25th of November, composed of Messrs. McNab, Draper, Parke, Sherwood, and Woodruff. On the first of December Messrs. Jones and Norton were added. And on the 22d, Mr. Draper retired and was succeeded by Messrs. Prince and Burwell.

himself the enemy of the Reformers; and he brought all the weight of his position to bear against them as a party. It was the general conviction of the popular party, that if Mr. Mackenzie's complaints of the undue return of Mr. Thompson had gone before a committee of the House, he could not have hoped to obtain justice; a conviction which prevented others from seeking to reclaim seats out of which they believed they had been fraudulently cajoled. This was the case of Mr. Samuel Lount, who was goaded into rebellion and hanged for high treason.*

The sense of injustice engendered by these means rankled in men's minds; and it tended to beget a fatal resolution to seek redress by a resort to physical force.

* "On the 15th of February, 1837," Mr. Mackenzie related, "Mr. Samuel Lount, the late upright and patriotic member for Simcoe, called at my house, accompanied by Mr. Thrift Meldrum, Merchant and Innkeeper in Barrie, and I mentioned to them that I was collecting evidence for a pamphlet to expose the Government, as the Executive influence had cheated me out of my right to do so through an election contest for the Second Riding. Mr. Lount took out his pocket memorandum book, and stated that Mr. Meldrum had been requested to open his tavern for Robinson and Wickens, at the time of the late election, and that he did so; that since the election he (Meldrum) had informed him (Lount) that on one occasion, he (Meldrum) accompanied Mr. Wellesley Ritchey, the Government Agent, from Toronto to the Upper Settlement; that Mr. Ritchey called him (Meldrum) to one side at Crew's tavern, where the stage stopped, and told him that Sir Francis had employed him (Ritchey) to give the deeds to the settlers in Simcoe, and that he (Ritchey) wanted him (Meldrum) to assist in turning Lount out. Meldrum agreed to do his best, opened his house, and says that Wickens paid him faithfully for his liquor, &c. When Mr. Lount had read the above from his memorandum, I asked Mr. Meldrum if he could swear to these facts, he said he could, for they were perfectly correct. I then asked Mr. Lount, who gave me a number of important facts, why he did not contest the election, and he told me it would have been throwing £100 away, and losing time, for that no one who knew who the members were, could for a moment expect justice from them."

This resolution, which did not assume a positive shape for some time afterwards, was a capital error, and one which some were to expiate with their lives, others with sufferings and privations and contumely scarcely preferable to death.

It was not sufficient for Sir F. B. Head and his friends to pursue one of the two parties into which the country was divided with injustice; they were not less ready to assail them with personal calumny. The Tory press asked, "Who is Wm. Lyon Mackenzie?" And then they proceeded to give their own answer. The Celtic blood boiling in his veins, at the personal insults offered, Mr. Mackenzie replied in terms that cannot be characterized as either temperate or discreet.* The fiery words, he used under the excitement, can hardly be held to express more than the exasperation of the moment; and if they did not fall harmless, it was because the government of Sir F. B. Head had inclined the people to listen to desperate counsels.

* "Small cause indeed," he said, "have Highlanders and the descendants of Highlanders to feel a friendship for the Guelphic family. If the Stuarts had their faults, they never enforced loyalty in the glens and valleys of the north by banishing and extirpating the people; it was reserved for the Brunswickers to give, as a sequel to the massacre of Glencoe, the cruel order for depopulation. I am proud of my descent from a rebel race; who held borrowed chieftains, a scrip nobility, rag money, and national debt in abomination. And notwithstanding the doctors' late operations with the lancet, this rebel blood of mine will always be uppermost. Words cannot express my contempt at witnessing the servile, crouching attitude of the country of my choice. If the people felt as I feel, there is never a Grant or Glenelg who crossed the Tay and Tweed to exchange high-born Highland poverty for substantial Lowland wealth, who would dare to insult Upper Canada with the official presence, as its ruler, of such an equivocal character as this Mr. what do they call him — Francis Bond Head."

In the session of 1836-7, which closed on the 4th of March, Sir F. B. Head's "Bread and Butter" Assembly was very far from realizing his election promises of Reform.* But it is not probable that any section of the public was disappointed, for they were not promises that any one expected to see fulfilled. The fear of a legal and inevitable dissolution, which seemed to be impending, weighed heavily upon the "Bread and Butter" Parliament. King William IV. would probably not live four years; and on the demise of the Sovereign the Legislative Assembly legally ceased to exist. Sir F. B. Head was not likely to fare so well in a second election as he had in the first. A bill was therefore passed, taking away the effect of the Sovereign's death, of dissolving the House. Of the majority, who passed this act, Mr. Mackenzie said, "They tremble and shake for fear of the just retribution their covetousness has provoked; and at Head's nod vote themselves fit to outlive kings and emperors, though utterly unfit to face their injured country." The Lieutenant Governor was greatly scandalized at a vote of £50,000 for roads, in the previous session;

* In one of his electioneering replies to addresses, Sir F. B. Head said: "Upper Canada has been so cruelly deceived by false statements, that the farmers' interests are neglected, while the agitators of the Province have been reaping a rich harvest.

"Gentlemen, I was sent here by His Majesty on purpose to correct the grievances of the country. I see quite clearly who are its enemies; and I declare to you, that if the farmers will assist me, I will assist them.

"It is quite certain that I can render this Province powerful assistance; and it is equally certain that I have been ordered by His Majesty so to do."

And in another: "Gentlemen, I need hardly assure you that I myself am an advocate for reform, because if you will but take the trouble to read my instructions, they will show you, that I was sent to Upper Canada by our Gracious Sovereign for the express purpose of carrying reform into effect."

but now ten times that amount was voted for the same purpose. The bill authorized the government to appoint commissioners to expend the money. If there were grave objections to allowing members of the House to perform this duty, the matter was not likely to be made much better by investing an irresponsible administration with the entire control of the expenditure, through agents of its selection. The money bills, passed this session, show an extraordinary degree of recklessness, on the part of the House, in incurring debt. The Welland Canal debt was increased to nearly a million of dollars. Authority was given to borrow on the credit of the Province over three quarters of a million (£300,000) more, on account of a projected railroad from Hamilton to Sandwich; to lend \$400,000 to the Toronto and Lake Huron Railway Company; for a loan of £77,000 for the improvement of the Trent Navigation. A large number of other loans to companies connected with harbors, canals, and navigation, was authorized. The entire amount voted must have been about five millions of dollars; bearing a larger proportion to the revenue than a hundred millions would at present. The establishment of fifty-seven Rectories by Sir J. Colborne, before he left the government, which had given great offence to a large majority of the population,* received the approval of the Assembly.

The session closed in one of those hurricanes of pas-

* When Sir F. B. Head undertook to manage the elections, he found the Rectorry question one of his difficulties. "The feeling which the endowment of these Rectories created through the Province," he admitted in a dispatch to the Colonial Secretary, "was one of the many difficulties I had to contend against, during the late elections."

sion which often precede a violent revolutionary movement. The question of a Union of Upper and Lower Canada had been before the House during the session, and resolutions had been passed condemning the project. At twelve o'clock on the last day of the session—the prorogation was to take place at three—Messrs. Sherwood and Jones asked the concurrence of the House in an address to the Crown founded on the resolutions. Dr. Rolph moved an amendment, the object of which was to prevent a decision on the question in the absence of many members who had already gone home. He was followed by two other speakers on the same side, and as time was running rapidly against them, and Black Rod would soon make his appearance, the Tories began to show signs of impatience—moving about, whispering in little knots together, and calling “question” and “order.” Then, at the instance of Messrs. Jones and Draper, the Speaker called Dr. Rolph to order, laying down the rule that the question of Union could not be discussed on the amendment, but that it was only permissible to argue from the absence of members. Trying what he could do within these narrow limits, Dr. Rolph proceeded:—

“Our geographical situation,” he said, “is singular. To the South we are barred from the Atlantic coast by the American Republics; to the North and North-West you pass through barren lands to mountains covered with everlasting snows, and among Indian tribes unknown; and to the East we are intercepted by the sister Province, the very Province with which it is proposed to unite us.” Here he paused amidst

a scene of wild confusion. Three members were conferring with the Speaker, and others of the majority were consulting together in clusters, when the Speaker, addressing Dr. Rolph, told him he must confine himself to the question. "Most logically, sir," was the reply, "nothing but the gossiping about you prevented you from comprehending the bearing of my remarks," Mr. Jones, in an undertone: "This is indecent." Dr. Rolph: "The honorable and learned member says, 'This is indecent.'" Mr. Jones: "I only said so to you, not to the House." Dr. Rolph: "What is said to me is said to the House. Indecent to discuss the question of Union introduced by himself!" The Speaker interposes: "That, sir, is beside the question." Dr. Rolph: "Do, sir, then your duty by protecting the minority against the majority." There was now a scene of complete confusion and disorder; members moving about, whistling and talking, amid cries of "Chair." The Speaker again interposed: "Really the time must not be thus consumed; we shall soon have to wait upon the Lieutenant Governor with some joint address." Dr. Rolph: "Then postpone the discussion till next session; surely want of time is attributable to those who now bring on the question at the eleventh hour, not to this side of the House, who are forced into it." After a further altercation, the amendment was put and lost, and just as the Speaker was about to put the main motion, Dr. Rolph rose, saying: "Mr. Speaker, I have another amendment to propose, notwithstanding your high-handed method of putting me down." Mr. Sherwood: "Order! order! chair." Several voices: "Pro-

tect the chair." The Speaker made some remark that was not audible below the bar. Dr. Rolph: "Bear it; yes, it is but little of what is deserved." He then moved that the sense of the country on the subject of a Union of the Province would be best ascertained by dissolution, as a means of appealing to the country. Having thus obtained the right to enter on a wider range of discussion, he went on amid the same confusion as before, and when he was uttering the words, "The evil of our inland situation is admitted; what is the remedy?"—the Speaker announced: "The time has arrived—half-past one—to wait on the Lieutenant Governor with some joint address." And the scene was abruptly brought to a close.

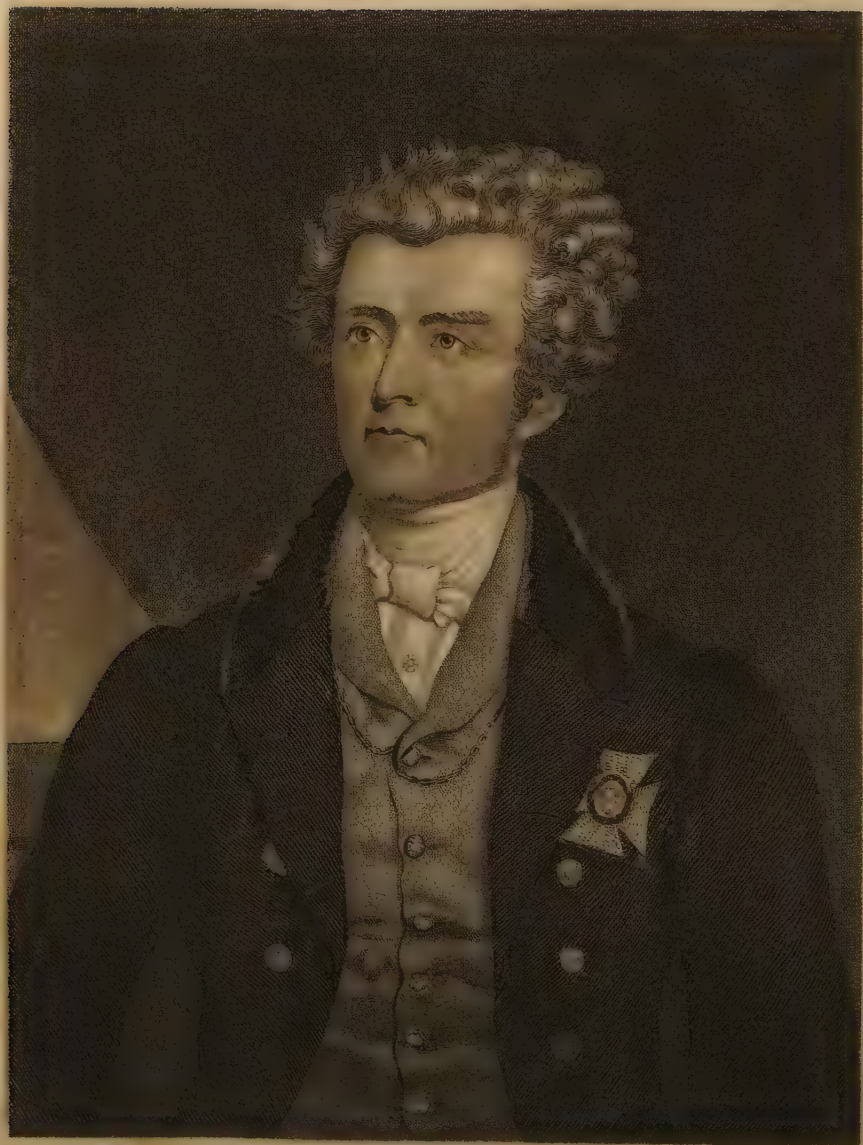
Thus ended the last regular session of the Upper Canada Legislature preceding the outbreak of 1837, though an extraordinary session was to intervene. Several such scenes had occurred during the first session of the "Bread and Butter" Parliament.*

In the last session of the previous Parliament, Mr.

* The *Montreal Gazette*, a Tory paper, was greatly scandalized at the "scenes of an unseemly character that have lately been enacted in the Commons House of Assembly of our sister Province of Upper Canada. We particularly allude," it said, "to the disorderly, and, we must add, disgraceful manner in which important questions were discussed during the late session. Why, we ask, on any question, however much it may involve the interests of the public, or excite the feelings of contending and opposite parties, should the present House of Assembly of Upper Canada, of all others, so far forget what was due to itself, to the dignity of its deliberations, to the welfare of its constituency, to the prosperity of the Province, and the fair fame and honor of its character, as to permit itself for an instant to break loose like so many Bedlamites into those scenes of riotous disorder to which we have alluded, and which, it is admitted on all hands, reflect but little credit on the best and wisest among them."

Mackenzie, as has already been noticed, had carried an address to the King, praying that the Imperial Government would, by the use of its diplomatic instrumentalities, endeavor to procure for Canadians transit of goods through the United States free from import duties. But as it had not brought about the desired result, a large number of Canadians petitioned the Federal authorities, at Washington, to grant a drawback of duties on Canadian imports passing *in transitu* through the United States. And it was alleged that the petition received more attention than was paid to the address sent to England, though it appears to me that the facts hardly bore out the statement.

This spring Mr. Mackenzie went to New York, arriving there about the end of March. At the trade sales, then going on, he purchased several thousand volumes of books, and made large additions to his printing establishment. About two years before he had added a large book-store to his other business, and his present purchases furnished decisive proof that, at this time, the idea of risking every thing upon an armed insurrection had not entered into his calculations.



J. H. Cross del.

SIR FRANCIS B. HEAD, BART.

THE
LIFE AND TIMES

OF

WM. LYON MACKENZIE.

WITH AN ACCOUNT OF THE CANADIAN REBELLION
OF 1837, AND THE SUBSEQUENT FRONTIER
DISTURBANCES, CHIEFLY FROM UN
PUBLISHED DOCUMENTS.

BY
CHARLES LINDSEY.

VOL. II.

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LIFE

OF

WILLIAM LYON MACKENZIE.

CHAPTER I.

The Crisis approaching—Report of the Royal Commissioners, in Lower Canada—The Effect on Upper Canada—Lord John Russell's Coercion Resolutions for seizing the Public Chest of Lower Canada—They create a Hurricane of Indignation in the Province—The Principle at Stake—Anti-coercion Meetings—Mackenzie's Reasons for thinking the Lower Canadians would succeed in an Appeal to Arms—The Declaration of the Upper Canada Reformers—Its private History—A Central Vigilance Committee formed in Toronto, of which Mr. Mackenzie was Agent and Secretary—An Organization throughout the Country set on foot, in such a way that it could be used for Military purposes—It afterwards became the Instrument of Revolt—Mackenzie attends a Series of Public Meetings as Agent of the Toronto Vigilance Committee—The chief Actors in many of these Meetings become involved in the Insurrection—Independence declared to be necessary, and Calls to Arms are made—Disturbances at the Public Meetings—"Pikes and Rifles"—Two Hundred Meetings held, and One Hundred and Fifty Vigilance Committees formed—Some of the Leaders joined no Association.

THE crisis was now rapidly approaching. It was to come first in Lower Canada, with which the fortunes of the Western Province were to become involved. The Royal Commissioners, appointed to inquire into the grievances complained of in Lower Canada, had reported; and about the middle of April, their reports—five in number—were made public. The surrender of the casual and territorial revenue to the Assembly, whose claim to control it had led to repeated and angry disputes, was recommended, on condition that the arrearages of salaries amounting to

£31,000 should be paid, and a civil list, amounting to about £20,000, should be granted, for the life of the King. The Legislative Council, it was recommended, should be erected into a court of impeachment for offending public servants. The demands for an elective Legislative Council and a responsible Executive were reported against. The decision of the Commissioners, on the subject of the Legislative Council, was in accordance with instructions they had received. In a dispatch, dated July 17th, 1835, Lord Glenelg informed the Commissioners that all discussion of one of the vital principles of the Provincial Government—a Crown-nominated Legislative Council was alluded to—was precluded by the strong predilections of the King, the solemn pledges repeatedly given for the maintenance of the existing system, and the prepossessions derived from constitutional analogy and usage. The decision thus communicated by way of instructions to the Commissioners was merely echoed by them. It affected Upper equally with Lower Canada; for Lord Glenelg, in his instructions to Sir F. B. Head, had stated as his reasons for not answering the part of the Grievance Report which referred to the constitution of the Legislative Council, that the instructions to the Commissioners contained views, on this point, which had received the deliberate sanction of the King.

The Imperial Government went beyond the recommendation of the Commissioners. Lord John Russell, on the 8th of March, obtained the assent of the House of Commons to resolutions which, among other things, authorized the seizing of the funds in the hands of the

Receiver General of Lower Canada, and applying them to purposes for which the Assembly would only grant them, on condition that certain reforms should be effected. They had voted the salaries of the judges; but they were to be paid only on condition that those functionaries should hold no other office under the Crown. In this way they had attacked what they considered an incompatible plurality of offices. The Council, refusing to concur with the House, made no report on the Supply Bill; and, therefore, in one sense, it might be alleged that the supplies failed in that House. The Assembly made certain of the supplies dependent upon a redress of grievances. On the 3d of October, 1836, the House had come to the resolution to adjourn their proceedings till His Majesty's Government should have commenced "the great work of justice and reform, especially by bringing the Legislative Assembly into harmony with the wishes and wants of the people." Lord John Russell contended that the demand for an Executive Council, similar to the Cabinet which existed in Great Britain, set up a claim for what was incompatible with the relations which ought to exist between the Colony and Mother Country. "These relations," he said, repeating the stereotyped official idea of those times, "required that His Majesty should be represented in the Colony not by Ministers, but by a Governor sent out by the King, and responsible to the Parliament of Great Britain." A Colonial Ministry, he contended, would impose on England all the inconveniences and none of the advantages of Colonies. If this system were adopted, and a British subject were wronged on the banks of the

St. Lawrence, His Majesty would have less right to interfere than if the injury had been committed on the banks of the Danube or the Bosphorus. As to the authority of the Imperial Legislature to remedy a defect in the cessation of supply, on the part of a Colonial Assembly, he apprehended that there could be no doubt. The same thing had been done only the year before with respect to Jamaica; and that was precedent sufficient. When a similar question was raised with regard to the Legislature of the Colony of New York, Dr. Franklin had admitted that the power, now contended for, resided in the Imperial House of Commons. With two such precedents, Lord John Russell deemed himself justified in resorting to a measure of confiscation, which led to rebellion.*

Mr. Hume had a better appreciation of the crisis. He looked upon the proceedings as involving a question of civil war. If the Canadians did not resist, they would deserve the slavish bonds which the resolutions of Lord John Russell would prepare for them; and he hoped that, if justice were denied to Canada, those who were oppressed would achieve the same victory that had crowned the efforts of the men who had established that American Republic, which had given a check to those monarchical principles which would otherwise have overwhelmed the liberties of Europe.

How little the House of Commons was conscious of the results that hung upon their decision, may be

* M. Louis J. Papineau, the leader of the insurrection in Lower Canada, stated in an account of the troubles which he published after he became a refugee, in Paris: "None of us had prepared, desired, or foreseen armed resistance," before these resolutions were passed.

gathered from the fact that, while Mr. Hume was speaking, the House was counted to see if there was a quorum. It was ascertained that there were over forty members present, and the debate went on to its fatal close. And in the House of Lords, the same apathy was shown. Not over one-tenth of the members, who frequently attend, came to listen to or take part in the debate; and except Lord Brougham, who entered on the journals his protest against such proceedings, not a single member opposed their passage. Mr. Gladstone saw nothing in the question raised but how the faithful servants of the Crown could be relieved from difficulty; and Mr. Labouchere echoed these observation with some flourishes of his own. Lord Stanley, who had been among the first to denounce the Legislative Council as the source of all the evils under which Upper Canada labored, and who had perhaps been the first to suggest to the Colonists a resort to the constitutional remedy of withholding the supplies, now denounced both these remedies, and declaimed about "the most odious and blood-thirsty tyranny of French republicanism."

The resolutions were carried, and the result which Mr. Hume had predicted, followed.* They were re-

* As these resolutions were the immediate cause of the insurrection in both the Canadas, they cannot well be omitted here:—

"1. That since the 31st day of October, in the year 1832, no provision has been made by the Legislature of the Province of Lower Canada for defraying the charges of the administration of justice, and for the support of the civil government with'n the said Province; and that there will, on the 10th day of April, now next ensuing, be required for defraying in full the charges aforesaid, to that day, the sum of £142,100 14s. 6d.

"2. That at a session of the Legislature of Lower Canada, holden at the City of Quebec, n the said Province, in the months of September and October,

ceived with a storm of indignation by the French Canadians. The local officials and their friends were

1836, the Governor of the said Province, in compliance with His Majesty's commands, recommended to the attention of the House of Assembly thereof the estimates for the current year, and also the accounts showing the arrears due in respect to the civil government, and signified to the said House His Majesty's confidence that they would accede to the application which he had been commanded to renew for payment of the arrears due on account of the public service, and for the funds necessary to carry on the civil government of the Province.

"3. That the said House of Assembly, on the 3d day of October, 1836, by an address to the Governor of the said Province, declined to vote a supply for the purposes aforesaid; and by the said address, after referring to a former address of the said House to the Governor of the said Province, declared that the said House persisted, among other things, in the demand of an elective Legislative Council, in demanding the repeal of a certain act passed by the Parliament of the United Kingdom in favor of the North American Land Company; and by the said address the said House of Assembly further adverted to the demand made by that House of the free exercise of its control over all the branches of the Executive Government; and by the said address the said House of Assembly further declared, it was incumbent on them, in the present conjuncture, to adjourn their deliberations until His Majesty's Government should, by its acts, especially by rendering the second branch of the Legislature conformable to the wishes and wants of the people, have commenced the great work of justice and reform, and created a confidence which alone could crown it with success.

"4. That in the existing state of Lower Canada, it is unadvisable to make the Legislative Council of that Province an elective body; but that it is expedient that measures be adopted for securing to that branch of the Legislature a greater degree of public confidence.

"5. That while it is expedient to improve the composition of the Executive Council in Lower Canada, it is unadvisable to subject it to the responsibility demanded by the House of Assembly of that Province.

"6. That the legal title of the North American Land Company to the land holden by the said Company by virtue of a grant from His Majesty, under the public seal of the said Province, and to the privileges conferred on the said Company by the act for that purpose made in the fourth year of His Majesty's reign, ought to be maintained inviolate.

"7. That it is expedient that so soon as provision shall have been made by law to be passed by the Legislature of the said Province of Lower Canada, for the discharge of lands therein from feudal dues and services, and for removing any doubts as to the incidents or the tenure of land in free and common soc-

jubilant at the imaginary success which had been achieved for them. The journals of the opposition were defiant. The seizure of the revenue was denounced as robbery. "Henceforth," said an English organ of the opposition, "there must be no peace in the Province—no quarter for the plunderers. Agitate! agitate!! agitate!!! Destroy the revenue; denounce the oppressors. Everything is lawful when the fundamental liberties are in danger. 'The guards

age in the said Provinces, a certain act made and passed in the sixth year of the reign of His late Majesty, King George the Fourth, commonly called 'The Canada Tenures Act,' and so much of another act passed in the third year of His said late Majesty's reign, commonly called 'The Canada Trade Act,' as relates to the tenures of land in the said Province, should be repealed, saving, nevertheless, to all persons, all rights in them vested under or by virtue of the said recited acts.

"8. That for defraying the arrears due on account of the established and customary charges of the administration of justice and of the civil government of the said Province, it is expedient that, after applying for that purpose such balance as shall, on the said 10th day of April, 1837, be in the hands of the Receiver General of the said Province, arising from His Majesty's hereditary, territorial, and casual revenue, the Governor of the said Province be empowered to issue from and out of any other part of His Majesty's revenue in the hands of the Receiver General of the said Province, such further sums as shall be necessary to effect the payment of the before mentioned sum of £142,100 14s. 6d.

"9. That it is expedient that His Majesty be authorized to place at the disposal of the Legislature of the said Province the net proceeds of His Majesty's hereditary, territorial, and casual revenue arising within the same, in case the said Legislature shall see fit to grant to His Majesty a civil list for defraying the necessary charges of the administration of justice, and for the maintenance and unavoidable expenses of certain of the principal officers of the civil government of the said Province.

"10. That great inconvenience has been sustained by His Majesty's subjects inhabiting the Provinces of Lower Canada and Upper Canada from the want of some adequate means for regulating and adjusting questions respecting the trade and commerce of the said Provinces, and divers other questions wherein the said Provinces have a common interest; and it is expedient that the Legislatures of the said Provinces respectively be authorized to make provisior for the joint regulation and adjustment of such, their common interests."

die—they never surrender.' ”* At public meetings the Imperial resolutions were denounced as a breach of faith and a violation of right. Resolutions were come to, to use as little as possible of imported articles paying duty;† and to raise a Papineau tribute in imitation of O’Connell’s Repeal Rent.

The Toronto Alliance Society, on the 17th of April, expressed its sympathy with the Lower Canadians, and condemned the coercion resolutions of the Imperial Government.

Success is the only thing that is generally held to justify insurrection against a government; and though it is impossible to lay down any general rule as to the point at which submission to oppression ceases to be a virtue, it is generally admitted that the initiation of such a movement can only be excused by a reason-

* *Montreal Vindicator*, edited by Dr. O’Callaghan, M. P. P.† At a large meeting, held at St. Scholastique, county of Two Mountains, M. Papineau said:—“They [the British Ministry] are going to rob you of your money. Your duty then is plain. Give them no money to steal! Keep it in your pockets! [Loud cheers.] The British Ministry promised, fifty years ago, when well drubbed, beaten, and humiliated by the Americans, to respect the rights of the people. Now they think they are strong, and can trample under foot those rights they solemnly promised formerly to respect. Let us examine what the Americans did under similar circumstances. Ten days before they took up arms, they adopted the course which we are now about to recommend to you. They abstained from taxed articles which paid duties, and thus deprived their enemies of money and power to oppress and tyrannize over them. Even the women, handsome and patriotic as our own Canadian women, determined to assist their husbands, their fathers, and their brothers, in resisting the horrible oppression which their tyrants were preparing for them. I fervently hope, and in the name of mine and their suffering country, I call on, I implore the women of Canada to follow the bright example set them, in times like the present, by the patriotic women of America, and to assist me, and us all, in destroying that revenue which our oppressors are forging into chains for us and our children, and by all means in their power to discourage the consumption of those articles which pay duties.”

able prospect of success. If the question of the Lower Canada rebellion could be decided upon the merits of the principle at stake, we should be obliged to confess that what the Canadians fought for was just as sacred as that right of self-taxation for which Washington took up arms, and in defence of which the thirteen American Colonies threw off the yoke of England. If it is not permissible to tax a people without their consent—and the House of Commons had long before made a solemn declaration to this effect, in the case of the Colonies—on what principle could the proceeds of their taxes be seized upon by an authority which had deprived itself of the power to levy them?

On the 15th of June, Lord Gosford tried the effect of a proclamation, on the agitation which was convulsing society. He assured the people that the Imperial Parliament had neither violated nor was about to violate the just rights and privileges of His Majesty's Canadian subjects; he exhorted all concerned to discontinue writings of a seditious tendency and to avoid public meetings of a "dangerous or equivocal character." But the proclamation, which was torn to pieces by the *habitants* amid cries of "*A bas la proclamation*," produced no effect, if it were not to increase the fervor with which the coercion resolutions, as they were called, were denounced. The French Canadians rallied to the popular cries: "*Vive Papineau! Vive la liberté! Point du despotisme!*" In accordance with the Lower Canada practice, many of these meetings were held at the doors of the parish churches, after the conclusion of the religious service. M.

Papineau, the chief agitator, a man of commanding eloquence who was omnipotent with the French Canadian population, traversed the whole country from Montreal to Rimouski; holding meetings everywhere and exciting the people to the highest pitch of exasperation. While he was on the South shore of the St. Lawrence, Messrs. Lafontaine and Girouard were performing a similar mission on the other bank of the great river. Dr. Wolfred Nelson, too, bore his share in the work of popular agitation; having made a conspicuous figure at the first of the "anti-coercion" meetings, which was held at St. Ours, in the County of Richelieu. Some of the meetings were attended by men with fire-arms in their hands.

In the beginning of July, Mr. Mackenzie discussed, in his newspaper, the question—"Will the Canadians declare their independence and shoulder their muskets?" After referring to meetings that had been held at L'Islet and Bellechasse, he proceeded, in the suggestive style, to say: "Two or three thousand Canadians, meeting within twenty-five miles of the fortress of Quebec, in defiance of the proclamation, with muskets on their shoulders and the Speaker of the House of Commons at their head, to pass resolutions declaratory of their abhorrence of British Colonial tyranny, and their determination to resist and throw it off, is a sign not easily misunderstood." He then proceeded to the question: "Can the Canadians conquer?" and gave several reasons for answering it in the affirmative. He, however, excepted the fortress of Quebec. He argued that they would conquer every thing but this; because they were united by the bond of a

common language, a common religion, and a common origin. They had for twenty years steadily opposed the oligarchical system imposed upon them. Their leaders were bold and resolute, cool and calculating; full of fire and energy. As marksmen, they were more than a match for British soldiers. Their organization was better than Lord Gosford had any conception of. They had a large number of experienced officers among them, and were constantly receiving from France military men who had won laurels at the feet of Napoleon. The garrison of Quebec would rather desert than fight against their fellow subjects. Thousands of Englishmen, Scotchmen, and Irishmen, in the United States, would hasten to rally around the standard of the Canadians; especially if they were offered three hundred or four hundred acres of Clergy Reserves each. The Colonial Governors had no adequate means of resistance; and no House of Commons would sanction the spending of fifty or sixty millions to put down the rebellion.

Such were the opinions deliberately written and published by Mr. Mackenzie, on the 5th of July, 1837. The French Canadians appealed to the other British Provinces of America for co-operation, and looked to the United States for support. And this co-operation the leading Reformers of Upper Canada resolved to give.

On the 2d August, a "Declaration of the Reformers of Toronto to their Fellow Reformers in Upper Canada," was published in *The Constitution*.* This document was virtually a declaration of independence, and

* See Appendix D.

it was afterwards called the "Declaration of the Independence," of Upper Canada, but there is reason to doubt whether its purport was fully understood even by all who signed it. Setting out with the declaration that the time for the assertion of popular rights and the redress of the multiplied wrongs of half a century, patiently borne, had arrived, it entered into a long recital of grievances, and ended with a pledge to make common cause with Lower Canada, and a resolve to call a convention of delegates, at Toronto, "to take into consideration the political condition of Upper Canada, with authority to its members to appoint commissioners to meet others to be named on behalf of Lower Canada and any other Colonies, armed with suitable powers as a Congress to seek an effectual remedy for the grievance of the Colonists."*

This Declaration has a public and a secret history. The public history is, that at a meeting of Reformers, held at Mr. John Doel's Brewery, Toronto, on the 28th July, the troubles in Lower Canada were taken into consideration. On motion of Mr. Mackenzie, seconded by Dr. Morrison, a resolution was passed tendering the thanks and expressing the admiration of the Reformers of Upper Canada to Hon. L. J. Papineau and his compatriots for their "devoted, honorable, and patriotic opposition" to the coercive measures of the Imperial Government. Other resolutions were passed to make common cause with the Lower Canadians, "whose successful coercion would doubtless, in time, be visited upon us, and the redress of whose grievances would be the best guarantee for the redress of our own;" and, among other things,

* See Appendix D.

appointing a committee to draft and report to an adjourned meeting a declaration of the objects and principles which the Reformers aimed to carry out.*

The secret history is this. The document was a joint production in which O'Grady's and Dr. Rolph's pens were engaged. The draft was taken to a meeting, at Elliott's Tavern, on the corner of Yonge and Queen Streets, previous to its being taken before the adjourned meetings, at the Brewery, for adoption. Dr. Morrison, on producing the draft of the Declaration, laid it down as a sound canon that neither he nor any other member of the Legislature ought to be called upon to sign it. It was the privilege of persons outside the Legislature to raise questions of this nature, and the duty of the representatives to do their best to give effect to the wishes of the people in the sphere of action assigned to them. To this rule for the division of functions Mr. James Lesslie took exception. A document of grave import had been read to the meeting. It had been written by men who gave the most of their time to politics, and read to men who gave most of their attention to trade and commerce. The responsibility of signing such a document should not be thrown upon those who had not prepared it, and who knew least about its contents. The professional politicians ought to set the example, and then the others might follow. If the Declaration contained only an enumeration of facts, and if it were a proper document to be signed, the members of the

* The committee consisted of Messrs. James Harvey Price, O'Bierne, John Edward Tims, John Doel, John McIntosh, James Armstrong, T. J. O'Neill, and Mackenzie, with power to add to their number.

Legislature, such as Drs. Morrison and Rolph, ought to set the example; and if they did so, he would follow. Dr. Morrison found it necessary to append his name to the Declaration, but as Dr. Rolph was not there to pursue the same course, Mr. James Lesslie refused to sign and he induced his brother William to erase his signature. Next morning Dr. Rolph sent for Mr. James Lesslie to inquire what had been done at the meeting, and the latter replied by letter, repeating his objections to being put in the front rank of a movement in which he ought to be a follower. Dr. Morrison was not without reasons for his hesitation and timidity, though it is too much to expect that others will enter on a course fraught with danger, if those who advise them to do so refuse to accompany them; for on his trial for high treason, eight months afterwards, this Declaration was attempted to be made a ground of conviction.

At the meeting, held at the Brewery on the 31st of July, at which the Declaration was adopted, a permanent Vigilance Committee was appointed. It consisted of the members of the committee who had reported the draft of the Declaration; and Mr. Mackenzie complied with a request that he would become agent and corresponding secretary. The plan of proceeding was similar to that acted upon, in Lower Canada, where the public meetings were held under the direction of a central committee; and Mr. Mackenzie's duties as agent were to attend meetings, in different parts of the country, taking, in Upper Canada, the rôle played by Mr. Papineau, in the sister Province. Meetings were at once arranged to take

place in Albion, Caledon, Chingacousy, Esquesing, Trafalgar, and Vaughan; at Newmarket, Lloydtown, Churchville, and Cooksville.

The machinery of agitation, of which the motive power was in Toronto, was to have four several centres of action outside the city. At the meeting held in the Brewery, on the 28th of July, a plan submitted by Mr. Mackenzie, "for uniting, organizing, and registering the Reformers of Upper Canada, as a political Union," was adopted.* A net-work of societies

* The project was as follows:

"1. In order to avoid the mixture of persons unknown to each other, no Society is to consist of less than twelve or more than forty persons, and those to be resident as nearly as possible in the same neighborhood.

"2. Each of these Societies shall choose one of their number to be their secretary.

"3. The Secretaries of five of these Societies shall form a Committee, to be called the Township Committee.

"4. Ten of these Township Committees, of citizens residing in places the most convenient to each other, shall each select one of their number, and the persons so chosen shall form the County Committee.

"5. The District Committee shall consist of one member to be chosen from each County Committee within the limits of such district.

"6. Upper Canada shall be divided into four grand Divisions, as follows:

"The Western Division to consist of the counties of Kent, Essex, Middlesex, Oxford, Huron, and Norfolk.

"The Toronto Division to consist of Lincoln, Haldimand, Wentworth, Halton, York, Simcoe, and Durham.

"The Midland Division to consist of the counties of Northumberland, Hastings, Prince Edward, Frontenac, Lennox, and Addington.

"The Eastern Division to consist of the whole of the counties north-east of the Midland District.

"7. Within each of these Divisions there shall be a Committee of Division to be composed of two or three members elected from each of the District Committees within the same.

"8. The Executive shall consist of three persons, to be chosen from among the members of the several Committees of Division, and be invested with the necessary powers to promote the objects for which the Union is to be constituted." When he first proposed this plan, Mr. Mackenzie explained and published.

was to be spread over the country ; and care was to be taken to have them composed of persons known to one another. The objects of the organization were not declared in the programme of association ; but the duty of supporting Lower Canada against a coercion which, if successful, it was feared would next be visited upon Upper Canada, was recognized.

When Sir Francis Bond Head resorted to the most unconstitutional means of influencing the elections of 1836, he carried despair into many a breast where hope had till then continued to abide. The coercion of Lower Canada by the Imperial Government and Legislature caused all such persons, in the Canadas, to look to a revolution as the only means of relief. Mr. Mackenzie was among those who came to this conclusion. But he only shared with a large class of the population a sentiment which was the inevitable produce of the existing state of things, and which affected masses of men, at the same moment, with a common and irresistible impulse. The Toronto Declaration of the 31st of July was the first step in the road to insurrection. It committed all who accepted it to share the fortunes of Lower Canada. The machinery of organization and agitation, which was created at the same time, became the instrument of revolt.

that " a plan, such as I have suggested, could be easily transferred without change of its structure to military purposes. The secretary of each subordinate Society of twelve might easily be transformed into a sergeant or corporal ; the delegate of five Societies to a Township Committee, into a captain with sixty men under his command ; and the delegate of ten Township Committees to a District Committee into a colonel at the head of a battalion of six hundred men."

The public meetings, which Mr. Mackenzie had undertaken to attend, now commenced. The first was held at Newmarket, "north of the Oak Ridges, and east of the line of King, and west of Guiliumbury," on the 3d of August. The agent of the Toronto Central Committee spoke an hour and a half; complaining, among other things, that the agents and petitions of the people had been unfairly treated, in London. A resolution was passed, approving of the Toronto Declaration, and appointing delegates to the Convention to be held in that city;* most of whom afterwards became involved in the insurrection; one of whom was executed for high treason, and others became political refugees in the United States. The principal complaint made in the resolutions was, that the Constitution was "continually violated and trampled upon by the Executive, and countenanced by the Colonial Office and the English Parliament." To take these grievances and the general state of the Province into consideration was to be the business of the Convention. It was also resolved to abstain as far as possible from the consumption of duty-paying articles; and to unite with the Lower Canadians, whose cause was declared to be the cause of Upper Canada, "in every practicable measure for the maintenance of civil and religious liberty." A political association and a permanent Vigilance Committee were formed. At the suggestion of Lount, cheers were given for Papi-

* Their names were Messrs. Samuel Lount, afterwards executed for high treason; Nelson Gorham, who became involved in the rebellion and was a long time a political refugee in the United States; Silas Fletcher, who also became a political refugee; Jeremiah Graham, and John McIntosh, M. P. P., who, though a party to the insurrection, was never arrested and scarcely suspected.

neau and the gallant people of the sister Province. Lieutenant Carthew, late of the British army, called on all persons opposed to Papineau to go to the right of the chairman; but he was followed by only two others.

Two days after, the second of the series of public meetings took place at Lloydtown. Messrs. Mackenzie, Lloyd, Lount, and Gibson, all of whom afterwards bore an active part in the rebellion, addressed the meeting. Mackenzie became head of the Provisional Government; Gibson was comptroller, and had besides a military position; Lloyd was the trusted messenger who carried to Mr. Papineau intelligence from his supporters in Upper Canada. No less than seventeen resolutions were passed. A resort to physical force was declared not to be contemplated. "Much," one of the resolutions affirmed, "may be done without blood." It was complained that "a bribed and pensioned band of official hirelings and expectants falsely assuming the character of the representatives of the people of Upper Canada, corrupted by offices, wealth, and honors bestowed upon their influential members by Sir F. B. Head, since they took their seats in the House of Assembly, have refused to allow a free trial to candidates ready to contest their seats—have refused to order new elections for members who have accepted places of gain under the government—have refused to institute a free and constitutional inquiry into corruptions practiced at the elections through Sir F. B. Head's patent deeds and otherwise; and although they were returned for the constitutional period which the death of the King has brought near to a close, they have violated the most solemn cove-

nant of the British Constitution, by resolving that their pretended powers of legislation shall continue over us three years longer than they were appointed to act." Approval of the Toronto Declaration was expressed; and delegates to the proposed Convention were appointed.* The meeting protested against "the dastardly insinuations of those who profess fears that the Lower Canadians, in obtaining the just rights they have so long and so patiently supplicated, are actuated by the motive to establish the Catholic or any other denomination as a state Church in this Province."† Separation from England was advocated, on the ground that the connection imposed upon the Province the evils of a state Church, an "unnatural aristocracy, party privilege, public debt, and general op-

* Dr. W. W. Baldwin and Messrs. Jesse Lloyd, James Grey, Mark Learmont, John Lawson, and Gerard Irwin.

† The authorities of the Roman Catholic Church in Lower Canada attempted to curb the revolutionary impulses of the people. At Montreal, the Bishop, before an assembly of over one hundred and forty priests or ecclesiastics, uttered the following words: "So solemn an occasion as the present had never presented itself; he saw nearly all his clergy met before him, and he was going to take advantage of the circumstance, to give to the pastors of parishes certain notices of the highest importance in the present circumstances of the country. The clergy were to use every effort to establish charity and union among their flocks; they were to represent to their parishioners, that it is never permitted to revolt against lawful authority, nor to transgress the laws of the land; that they are not to absolve in the confessional any indication of the opinion either that one may revolt against the government under which we have the happiness to live, or that it is permitted to break the laws of the country, particularly that which forbids smuggling; and still less is it allowed to absolve those who may violate these laws." But the torrent of agitation was too powerful for the bishop immediately to control. On the Sunday after these resolutions reached them, the people of Laprairie and Vaudreuil met in separate places, and passed resolutions, disapproving, in strong terms, of all interference on the part of the clergy in politics. A priest in Two Mountains, who denounced the movement, had his barn burned by his parishioners.

pression." To avert much bloodshed on both sides, loss, and dishonor of a war between people of a common origin, the payment of a price for the freedom of the Province was suggested. If the question of independence was tested by means of the ballot, it was hinted that there could be no doubt as to the result. Elective institutions, extending even to the judiciary, were declared indispensable.

But the emblems, devices, and mottos, displayed at this meeting, were even more significant than the resolutions. On one flag was a large star, surrounded by six minor lustres; in the centre a Death's head, with the inscription: "LIBERTY OR DEATH." Another flag bore the word, "Liberty," in large letters, with figures of pikes, swords, muskets, and cannons, "by way of relief to the eye." Some bad verses, making a call to arms, were inscribed on a third flag.* It

* A full record of these doings seems to impose upon me the duty of publishing the following bad jingle:

We* united were in days of yore,
 Again Quebec dares to the field
 Not that your noblest blood should pour
 Against the States domain to yield.
 With her she calls you to advance,
 On the broad path of truth and right.
 How answer ye the sons of France?
 "Up brave Canadians, to the fight."
 She points the way, she cheers you on,
 She bids you triumph for your right.
 "Dare ye not do what she is doing?"
 "Up brave Canadians, to the fight."
 And think ye Simcoe will not lend,
 In such a cause, her warrior tide?
 Nor Albion men their steep descend,†
 To share their peril at your side?

* Upper and Lower Canada.

† Albion is the name of a township near Toronto.

had been intended to erect a liberty pole, one hundred feet high ; but the design was abandoned.


Mr. Mackenzie left Lloydstown accompanied by only a couple of friends. While stopping on his way, at the house of a farmer, named Godboldt, south of the Oak Ridges, he learned that the Orangemen would make an attempt to break up the Albion meeting. About fifty young farmers therefore mounted their horses, and escorted him to the village of Boltontown. It was the 7th of August. As soon as Mr. Coats had been called to the chair, the Orangemen declared their intention to put down the meeting, and to resort to force if necessary to accomplish their object. They, however, listened patiently to Mr. Mackenzie, till the reading of the Toronto Declaration was commenced, when they proceeded to violent interruption. Finding they were not numerous enough to prevent the adoption of that Manifesto, they grew more vociferous, rendering it impossible to continue the proceedings. They gave Mr. Mackenzie's escort five minutes to leave the place ; threatening, if their mandate were not complied with, to bring out fire-arms which they professed to have all ready loaded, in one of the

Ireland will sound her harp and wave
 Her pure green banner for your right,
 Canadians never will be slaves !
 " Up sons of Freedom to the fight !"
 By LIBERTY's eternal name,
 Our Country's proudest glory, Arm
 Sweep from our shores oppression's shame,
 Canadians ! cleanse the locust swarm.
 Degenerate Russell's desp'rate pleas,
 Both Hume and Brougham have proved vain—
 One short sharp hour your country frees,
 Canadians ! to the fight again !

houses. This threat was neither regarded on the one side, nor carried into effect on the other.

After the public meeting had been broken up, part of the business it had on hand was transacted in Mr. Boulton's house. Delegates to the Convention were appointed, and a Vigilance Committee named. Resolutions were passed at all the other meetings, to use as little as possible of imported duty-paying articles, and expressing a hope that the bill to avoid an appeal to the people, on the death of the Sovereign, would, by the interposition of the Royal veto, be prevented from taking effect.

Some hours after, when several of those who had formed Mr. Mackenzie's escort to the place had gone, a collision between the two parties took place. Twenty-six Mackenzie men, mounted, were crossing the bridge over the Humber, when one of the opposite party seized the hindmost by the thigh, as if with the intention of forcing him into the river. Two others were attacked at the same time. All the twenty-six dismounted instantly, and fell upon their assailants with whatever was within their reach. Blood flowed freely; and some of the assailing party, as they lay on the ground, were made to confess that they had only got their deserts. Nobody was seriously injured. The victorious party now returned to the village; and placing themselves in the square gave three cheers for "Papineau, the deliverer, and his brave Canadians." The Orangemen returned to the attack; and there was another skirmish on the bridge, in which the twenty-six and their friends were again completely successful.



The meetings followed one another in rapid succession. The next was held in the township of Caledon, two days after that at Boltontown. Some of the resolutions passed at this meeting were drawn up with considerable skill, and one of them undertook to define the case in which an appeal to physical force would become a duty.* It was rather inferred from general

* A resolution moved by Mr. James Baird, and seconded by Mr. Owen Garrity, read thus:—"That it is the duty of the subjects of kings and governors to keep the peace, and submit to the existing laws; that it is equally the duty of kings and rulers to administer the government for the well-being and happiness of the community; and that when the existing laws and constitution of society become notoriously oppressive in form or administration, it is then, and at all times, the duty of free subjects, and for the benefit, safety, and happiness of all parties to call meetings, and ascertain, as far as can be done, the general opinion and estimate of all the good and evil which government dispense, as it is also the duty of a just government to protect its subjects in the peaceful exercise of such a precious and obvious right. If the redress of our wrongs can be otherwise obtained, the people of Upper Canada have not a just cause to use force. But the highest obligation of a citizen being to preserve the community, and every other political duty being derived from, and subordinate to it, every citizen is bound to defend his country against its enemies, both foreign and domestic. When a government is engaged in systematically oppressing a people, and destroying their securities against future oppression, it commits the same species of wrong to them which warrants an appeal to force against a foreign enemy. The history of England and of this continent is not wanting in examples, by which the rulers and the ruled may see that, although the people have been often willing to endure bad government with patience, there are legal and constitutional limits to that endurance. The glorious revolutions of 1688, on one continent, and of 1776, on another, may serve to remind those rulers who are obstinately persisting in withholding from their subjects adequate securities for good government, although obviously necessary for the permanence of that blessing, that they are placing themselves in a state of hostility against the governed; and that to prolong a state of irresponsibility and insecurity, such as existed in England during the reign of James II., and as now exists in Lower Canada, is a dangerous act of aggression against a people. A magistrate who degenerates into a systematic oppressor, and shuts the gates of justice on the public, thereby restores them to their original right of defending themselves, for he withholds the protection of the law, and so forfeits his claim to enforce their obedience by the authority of law."

principles than stated in so many words, that a state of things existed in Lower, if not also in Upper Canada, which would justify the people in resorting to arms to relieve themselves from oppression. The legality and the constitutionality of the import duties levied on the authority of Imperial statutes, passed soon after the conquest of Canada, were more than questioned. Taxation without representation was denounced as a tyranny not to be borne; "a badge of slavery which our forefathers resisted, in the case of Charles First's ship-money and the tea-tax at Boston." The English law, which prevented Canadians from purchasing tea, gunpowder, and other articles in the cheapest market, was described as "pretended legislation." It was recommended that in case a refusal to pay duties alleged to be illegally imposed led to seizure, the question should be brought before the courts for the opinion of a jury, and that the exercise of unlawful authority should be steadily resisted. The Toronto Declaration was approved; delegates to the projected Convention appointed; and a Vigilance Committee formed.

From Caledon to Chingacousy, the agent of the Toronto Central Committee was escorted by about twenty horsemen. Here a meeting was held in front of the house of Mr. John Campbell, lot 24, in the Second Concession, on the morning of the 10th August. Trouble had been anticipated; and Mr. Francis Campbell, brother of John Campbell, on whose grounds the meeting was held, went with the statutes under his arm, ready to read the riot act, if necessary; and Mr. John Scott, another magistrate, had gone there sur-

rounded by a number of Orangemen. Several of these and some of Mackenzie's supporters had fire-arms; others carried heavy clubs. The two parties were greatly exasperated against one another, and the Orangemen made use of threatening language. To prevent a collision, Mackenzie's party gave way. One John Wiggins, the master of an Orange Lodge, was appointed chairman; the other party not disputing with his supporters the majority, though it might have been matter of doubt on which side it was.

An adjournment to Mr. Campbell's house took place. What had become the usual routine of these meetings was gone through, and one of the resolutions mentioned independence as a state of existence that would have some advantages over that which the Province then enjoyed.

On the 12th August, Mr. Mackenzie was at Mr. John Stewart's, in the Scotch Block, Esquesing. Here at first his party were outnumbered, but after the opposition had retired, resolutions were passed declaring the boasted remedial measures of which the Lieutenant Governor had, on his arrival, declared himself the bearer, a deception; that the pretended constitution had been proved to be a mockery, and that the people were living under the worst description of despotism; that they were despised by the government to which, at great sacrifice, they had remained attached; while the people of the United States were in the enjoyment of the fullest extent of political liberty. "There is," wrote Mackenzie, in reference to this meeting, "discontent, vengeance, and rage in men's minds. No one can have an idea of the public feel-

ing who has not taken the same means that I have to ascertain it."

The meeting held at Hull's tavern, Trafalgar, on the 14th August, was noteworthy chiefly for the excitement displayed. "I am glad," Mackenzie wrote, "they did not fight. Such excitement I never saw before. In every inn it is, 'Hurrah for Papineau!'"

None of the speeches made by Mr. Mackenzie, at these meetings, were reported, or have been preserved. But the effect of his prodigious power, as a speaker, over a popular audience, must have been very great. The mission assigned to him by the Central Committee of Vigilance was not without its perils. It is not surprising that the Orangemen were exasperated at listening to speeches, resolutions, and declarations of a kind to which they were little accustomed, and which to them sounded like rank treason. Some of the resolutions bear internal evidence of having been drawn up by Mr. Mackenzie; and others might, I think, be affiliated to some of his political *confreres* in Toronto. We have already seen that some of the meetings were disturbed by Orangemen. But at Churchville, on the 15th August, their violence was carried to a greater extent than on any previous occasion. A contest for the chairmanship having been decided, by a large majority, in favor of Mr. Mackenzie's supporters, about fifty Orangemen, armed with clubs, climbed up the railing behind him. Mr. Edward Thompson, his opponent in the late election for the Second Riding of York, tried to induce them to desist; but they only answered the magistrate by threatening to throw him down unless he ceased to interfere. Of a number that

surrounded Mr. Mackenzie, with clubs in their hands, one attempted to throw him down, but was prevented by Mr. Stewart of Esquesing. On this effort to rescue Mackenzie being made, the Orangemen fell furiously upon their unarmed opponents, with their bludgeons. Mackenzie was not injured. The Tory organs openly threatened that if he held any more meetings, he would be assassinated.* It was afterwards stated that a deliberate plot had been entered into, by the hostile party who attended the meeting, to take Mackenzie's life; and that one who was a party to it, had divulged the secret to a person who, at the proper time, would publicly reveal it. The story was, that two persons, dressed in fantastic habiliments, were to draw off attention by acting the part of Merry Andrews, while the assassin in the crowd was to shoot the intended victim. It was added, that a pistol was fired, and a gun flashed in the pan. But the evidence never came out; and the existence of the conspiracy remained unproved.

Mr. E. W. Thompson informed Mr. Mackenzie that if a meeting were held at Cooksville, next day, he should read the riot act and prevent its going on. But all this did not prevent Mr. Mackenzie from attending the remaining meetings except the Cooksville one, at which it had been announced that he would be present. From the Vaughan meeting he and Mr. Gibson were accompanied by a cavalcade of about a

* "Had not the attention of the 'boys,' " said the *Patriot*, "been called in an opposite direction by the cry that 'Mackenzie is coming this way,' it is much to be feared that he would not have escaped with his life; and as sure as he attempts to call another seditious meeting, in this part of the country, so surely will he lose the number of his mess."

hundred horsemen and some thirty carriages; and it appears to have been understood that, in future, the Orangemen, if they disturbed any more meetings, should be met by their own weapons.*

Between the beginning of August and the former part of December, when the outbreak occurred, two hundred meetings are said to have been held in the country, at nearly all of which the Toronto Declaration was read and sanctioned. One hundred and fifty Vigilance Committees, in connection with the Central Committee at Toronto, were formed. Disturbances at the meetings frequently occurred. The nature of the movement could hardly have been misunderstood by the most unreflecting spectator. But only some of the members of the branch societies were actually trusted with the secret of the intended revolt. Some of the active leaders joined no association; and although they apparently kept aloof from the movement, they were secretly among its most active promoters.

* Referring to the Vaughan meeting, a writer in *The Constitution*, August 23d, over the signature of "One who saw and heard," says: "We all separated with the understanding, that to produce good order there must be hickory sticks, 'pikes, and rifles,' at our future meetings, for Orange ruffians and Tory squires stand in need of such special constables as these; and with them are as meek as lambs. Go on, Canadians, forming your societies of from twelve to forty; or if it were only ten to begin with, you will soon add to your numbers. Meet seldom, but come prepared. To the Lower Canada meetings, every man brings his rifle for self-defence." The expression "pikes and rifles" was borrowed from a speech of the Hon. P. McGill, of Montreal, who, in recommending the Tories of that city to organize, said: "The organization, that it may combine both moral determination and physical force, must be military as well as political. There must be an army as well as a congress. There must be 'pikes and rifles' as well as men and tongues."

CHAPTER II.

A Commercial Crisis—Mackenzie promotes a Run on the Bank of Upper Canada—An Ingenious Mode of prolonging Specie Payments—An Extra Session of the Legislature—Mackenzie's Declamation on the Result of the Session—He attends more Public Meetings—Disturbances—Threats to assassinate Mackenzie—Revolutionary Literature—Shooting Matches—The Welland Canal Libel Suit—Mackenzie cast in Damages to the Amount of two shillings.

A COMMERCIAL crisis aided the public discontent. In May, the New York banks suspended specie payments; and those of Montreal followed. In Toronto, the Bank of Upper Canada was looked upon as the prop of the Government; and it was probably as much for political as commercial reasons that Mr. Mackenzie advised the farmers to go to the counter of the Bank and demand specie for their notes. At the same time, he had small confidence in the security which most of the banks then gave for the redemption of their issues; and it must be admitted that the previous conduct of the managers of the most important of these institutions, in refusing to answer reasonable questions, put to them before a committee of the House, was not calculated to inspire confidence. As a political weapon against the Government, an attempt to drain the banks of their specie by creating a panic could have no sort of justification, except in times of

revolution. When Mr. Mackenzie produced a run upon the Bank of Upper Canada, a resort to armed insurrection was a contingency to which many were looking, with alternate hope and fear: hope that it might be avoided, fear that it would come.

The Bank of Upper Canada took an ingenious plan of fighting off the wolves that wished to carry away its gold and silver, leaving its own promises to pay in their place. The notes were paid in silver; and time was gained in the counting. The bank kept a number of its own friends at the counter, asking specie; and what was paid out to them during the day, was trundled back in a wheelbarrow, at night. A stratagem of this kind had the double advantage of economizing the specie, and, by prolonging the specie payment, tending to restore confidence.

If the Upper Canada banks had suspended specie payments, their charters would have been liable to forfeiture. Chiefly to prevent this result, Sir Francis Bond Head called an extraordinary session of the Legislature, on the 19th of June.* In the course of the session, which lasted about a month, a bill of prospective indemnity for pursuing such a course was passed. In the meantime, the Commercial Bank, at Kingston, had suspended; and the Farmer's Bank, in Toronto, stopped soon afterwards. The Government loaned £100,000, by the issue of debentures, to the Bank of Upper Canada; £30,000 to the Gore Bank; and £40,000 to the Commercial Bank. But when the rebellion came, the suspension of specie payment followed.

The failure of Thomas Wilson & Co., Financial

Agents of the Province, in London, who were reported to have £140,000, the proceeds of an Upper Canada loan in their hands, a few weeks before, had increased distrust and inflamed the discontent.

At the close of the session, Mr. Mackenzie, in his journal, declaimed on the condition of public affairs with scathing bitterness. The style is characteristic of the man, when his soul was stirred to its inmost depths, and it gives such a good idea of his power of agitating masses of men, that I give an example:

"Canadians! Brother Colonists! Your mock Parliament has done its duty. For four long weeks have its members been marched and counter-marched by our Kentish drill-sergeant, aided by Corporals McNab and Robinson. Bills and badgerings have followed each other in quick succession; and the end of the farce is, that the banks and the Province have been handed over by a sham legislative enactment to Sir Francis, like a Jamaica or other bankrupt estate, to be made the most of, for the use of its foreign owners and creditors, or like a farm held for a term of years at a rack rent, to be impoverished in every possible shape by the holder before it be given up.

"Ye false Canadians! Tories! Pensioners! Placemen! Profligates! Orangemen! Churchmen. Spies! Informers! Brokers! Gamblers! Parasites, and knaves of every caste and description, allow me to congratulate you! Never was a vagabond race more prosperous. Never did successful villainy rejoice in brighter visions of the future than ye may indulge. Ye may plunder and rob with impunity—your feet are on the people's necks; they are transformed into tame, crouch-

ing slaves, ready to be trampled on. Erect your Juggernaut—the people are ready to be sacrificed under the wheels of the idol.

“The four pound loaf is at a Halifax shilling; the barrel of flour brings twelve dollars; woe and wailing, and pauperism and crime meet us at every corner of the streets. The settlers and their families on the Ottawa, in Simcoe, in the rear of the London District, and many new settlements, seldom taste a morsel of bread, and are glad to gnaw the bark off the trees, or sell their improvements for a morsel to keep away starvation.

“The settlers are leaving the country in thousands, for lands less favored by nature, but blessed with free institutions and just government.

“The merchants are going to ruin one after another—even sycophancy and degrading servility have failed to save them this time. They cry out, Why is it so?—I pity them not. Money, wealth, power, was their god, the Dagon of their idolatry. Let them cry aloud and spare not—perhaps even now he will help them.

“But why are want and misery come among us? Ah, ye rebels to Christianity, ye detest the truth, ye shut your ears against that which is right.

“Your country is taxed, priest ridden, sold to strangers, and ruined. What then? Ye share the plunder! Like the Lazzaroni of Italy, ye delight in cruelty and distress, and lamentation and woe.

“I know you. I have long watched your movements!”

Mr. Mackenzie continued to attend political meet-

ings in the country ; and the exasperation of his enemies continued to increase. In Pickering, he met the unfortunate Peter Matthews, who was among those who were afterwards executed for high treason. At Whitby, where he did not go, threats were made by the opposite party to pull down the building in which it had been announced a meeting would take place ; and the rendezvous was therefore changed to Mr. Peter Perry's store. Nor was he at Malahide, where there was a disturbance, where the riot act was read, and the two parties came into collision in a general fight. In Westminster, Middlesex, the friends of Mackenzie and the supporters of Papineau turned out in such large numbers that the opposite party shrunk from the attempt to carry out their scheme of attack.

Threats, secret and open, were now made by the Tory party to assassinate Mackenzie. An anonymous letter, bearing the Hamilton post mark, was sent to Mr. Charles Durand, Barrister of that place, informing him that Mackenzie would be assassinated. It was signed "Brutus," as a guarantee of its sincerity. The Tory press, more bold than anonymous letter writers, was scarcely less explicit. Through this channel, he was informed that "if he dared to show himself in the London District, with the evil design of poisoning the happiness of the contented settlers, by agitation and strife, they would put it for ever out of his power to repeat his crime."* And shortly after, creditable witnesses swore that the source of the danger lay much higher than the exasperated men

* *Toronto Patriot.*

who carried bludgeons to public meetings;* men who bore the titles of honorable, and were thought to constitute excellent material out of which to make Executive Councillors, being charged with plotting Mr. Mackenzie's destruction. At the Mayor's Court, To-

* The following affidavits were published at the time —

"Home District, } Before me, James Hervey Price, Esquire, a Commis-
 "To wit: } sioner for taking affidavits in Her Majesty's Court of
 King's Bench, this day cometh William Howe, of the Township of York,
 Coach Maker, who, being solemnly sworn on the Holy Evangelists of
 Almighty God, voluntarily depose and saith, that about the hour of four
 in the afternoon, yesterday, Monday, the 13th of November instant, as this
 deponent was walking up the street leading from the public offices to the gate
 of Sir Francis Head, in company with Mr. John Mantach, of this city, six or
 seven persons came out at the Governor's door and out at his gate. This de-
 ponent only knew two of them, the Honorable William Allan, and the Hon-
 orable John Elmsley. They were talking about Mackenzie, and this deponent
 distinctly heard the Honorable John Elmsley say to Mr. Allan, for he turned
 to him while he spoke: "Mackenzie ought to have been shot at the time,
 and the only thing to be done is to take him out and shoot him." Mr. Allan
 said something which this deponent could not hear distinctly, and the third
 person, who was on Mr. Elmsley's right when they came out at the gate, went
 betwixt the other two, and appeared to notify them that they were overheard,
 on which they looked back and changed the conversation to a duel between
 Mr. Allan McNab and some other person. The other gentlemen, who had
 been with them, went up straight towards King Street. This deponent ac-
 companied Mr. Mantach to Mr. Mackenzie's residence in York Street, and
 offered to make affidavit to the above facts

"Sworn, &c.

"(Signed)

WILLIAM HOWE."

"Home District, } Before me, James Hervey Price, Esquire, a Commis-
 "To wit: } sioner for taking affidavits in the Court of King's Bench,
 Home District, cometh John Mantach, of the City of Toronto, Book Binder,
 late of the 79th regiment or Cameron Highlanders, formerly serving in
 York garrison, who, being solemnly sworn on the Holy Evangelists of
 Almighty God, freely and voluntarily depose and saith, that about the
 hour of four in the afternoon, yesterday, Monday, the 13th of November
 instant, as this deponent was walking up Graves Street, near His Excellency
 the Lieutenant Governor's gate, in company with Mr. William Howe, Coach
 Builder, Yonge Street, the Honorable Messrs. William Allan, Robert Bald-

ronto, Mr. Gurnett, who presided, denounced the habit that had begun to prevail of carrying deadly weapons; and called attention to several recent cases of stabbing with dirks.

The revolutionary literature of Ireland and America was ransacked, and made to yield its quota towards completing the public excitement. Mr. Mackenzie republished Paine's *Common Sense*, and from stereotype plates got out the first edition of the Bible ever printed in Canada. Trials of Irish patriots, who were fortunate enough to escape conviction, were reproduced. Patriotic poems, which had served in other causes, had the dust shaken from them, and were decked out in modern costume. Native bards imitated the examples which they found in other countries. The boldest words were first uttered in rhyme. Scarcely had the news of the coercion measure of Lord John Russell reached Canada, when these threatening

win Sullivan, and John Elmsley, Members of the Executive Council of Upper Canada, with several other gentlemen, came out at the said gate, from the Government House; and while the others, whose names this deponent doth not know, passed up the pathway, Messrs. Sullivan, Elmsley, and Allan, crossed over the street towards King Street, Elmsley in the middle, Allan on the left. Elmsley was saying to Allan, "Mackenzie should (or ought to) have been shot at that time, and the only thing to be done is to take him out and shoot him now." Sullivan perceived this deponent, whom he is personally acquainted with, and instantly got in the middle, between Allan and Elmsley, pinched their arms, and began to speak about McNab's gallant conduct respecting a duel. They walked on very fast, and parted from Elmsley at York Street, and this deponent thought it his duty to wait on Mr. Mackenzie and tell him what deponent had thus accidentally heard. Deponent's impression was that they were conspiring to use Lynch Law, and that the Mackenzie spoken of was the Editor of *The Constitution*.

“(Signed) JOHN MANTACH.

“Sworn before me at Toronto, this 14th of November, 1837.

“J. H. PRICE, a Commissioner for taking Affidavits, &c.”

utterances commenced. In Lower Canada, where the great majority of the French Canadians attended the "anti-coercion meetings," a large proportion of the British population were prepared to give their assistance to put down insurrection. To the question what would the Catholic Irish do, a response, dated Quebec, April 18, was published in a Montreal paper. The last verse asks as a favor that the Irish Catholics might be allowed to lead the van in the threatened contest:—

"Cheer on, cheer on, Canadian friends! Our foes we'd have you tell,
We rifles have in plenty, and we know their use right well—
For when the day of danger comes, we're with you to a man,
And all we ask, should strife commence, is to let us lead the Van."

Soon after we find figures of cannon significantly associated with the lyric effusions of Patriot pens. In the following, old Father Time is unfolding his long record from round a cannon:—

"Unfold, Father Time! thy long records unfold,
Of noble achievements accomplished of old,
When men, by the standard of Liberty led,
Undauntedly conquered or cheerfully bled;
But know, 'midst the triumphs these moments reveal,
Their glories shall fade, and their lustre turn pale;
Quebec rises up, and confirms the decree
That tears off our chains, and bids thousands be free."

From the "Lays of the West," fugitive pieces that struggled fatherless into existence, in the newspapers devoted to the work of inflaming the public mind to the requisite pitch, an example must conclude these extracts:—

"Arise, sons of Freedom! to glory arise!
Let Liberty's watchword resound to the skies;
Raise, raise the proud pennon of Liberty high,
On, on! to its rescue, and conquer or die,

Nor dream that so glorious a pennant can fall,
Or that mankind's proud tyrants shall freedom appall,
No! forward, with faith and at honor's right hand,
Strike home for your freedom, your rights, and your land.
Remember your sires! O forget not their fame!
Nor stain ye the heirloom, their truth and their name;
Preserve the escutcheon as bright and as true,
As ere the great trust was confided to you.
Britannia, Hibernia, and Scotia unite,
Like sons of one father rush on to the fight;
As floods from the mountains together rush on.
• Your numbers as thousands, your destiny One.'"

The confessions of English statesmen that the thirteen Colonies of America were right in resisting taxation without representation, were turned to a profitable account. Mr. Atwood's apothegm that "the strength of the people is nothing without union, and union nothing without confidence and discipline," became a standing motto of the revolutionary party. And Mr. Hume's declaration, that if there had been no display of force there would have been no Reform Bill, was not without its effect in changing the Vigilance Committees into *nuclei* of military organizations. Shooting matches, first got up by Mr. Gibson, in which turkeys were the immediate victims, became fashionable. Drilling was practised with more or less secrecy. An occasional *feu de joie*, on Yonge Street,* in honor of Papineau, with a hundred rifles, would be made the subject of boast in the press. Mr. Bidwell, who had refused to accept a nomination to the proposed Convention, and who kept at a safe distance from all these movements, could not refuse his legal advice that trials of skill among riflemen were perfectly lawful. The people were badly armed, and a

* A road, so called, running from Toronto, a distance of forty miles

brisk business in the manufacture of pikes began to be carried on. Some added bayonets to their rifles, on the pretence that if they wounded a deer in hunting and did not kill it, the supplementary weapon might be found very useful; but of these there were very few, and there was hardly a single bayonet in the outbreak north of Toronto.

The thread of the narrative of the initiatory steps of the rebellion must be here interrupted, for the purpose of introducing an episode, in the shape of a libel suit.* While investigating the mysteries of the Wel-

* The passage charged as libellous is appended:—

“I have made some progress in auditing the proceedings of other years, and beg to state, as the result of my observations, that the books of account are improperly kept, and purposely with intent to defraud the public and the canal proprietors; that many erasures have been made in the journal and ledgers to the injury of the company and advantage of favorites, or the connections of persons in office; that false entries have been made on the journal and ledgers to a large amount; that there is an actual defalcation of great extent on the part of the officers, now lately in charge.

“That the clerks have increased and decreased at their pleasure, and improperly altered and changed accounts of large amount, and made entries on the books unauthorized by the minutes of the Canal Board, and often in direct contradiction to the standing orders of that Board.

“The most of the entries on the books, since June, 1832, have been made by an under clerk of intemperate habits, sometimes hired by the day for a short time, and sometimes employed regularly—of late he has been paid by the year. In my letter to the President, requesting that a Board should be summoned, I stated ‘that the confidential person who keeps the books under the Secretary’s superintendence is absent, and it is believed drunk, a state not unusual to him.’ Since I have been a Director, the Secretary of the Canal Company has sometimes been absent for a week at Niagara, the clerk absent at the bottle, the workmen and others demanding payment of their accounts, and no one to attend upon them.

“Patrick Grant Beaton, the clerk referred to in the letter requesting the Special Board, as being deeply implicated in the affairs to which I called its attention, is continued as the book-keeper in the office, with the concurrence of the Directors, the same as if nothing unusual had occurred! When sober he is a tolerable accountant, and I find that nearly all the entries on the jour-

land Canal iniquity, in 1834, Mr. Mackenzie published a statement of progress reflecting, among other things, upon the gross irregularities of a person of the name of Beaton, the clerk of the Canal Company. He was described as being of intemperate habits, accused of neglecting his duty, of making false entries in the books, and entries not authorized as far as the minutes of the Board showed, and of improperly charging accounts of large amount. It was admitted that, when not in his cups, he was a tolerable accountant, and Mr. Mackenzie stated that he had urged the Board not to allow the books again to come under Beaton's manipulation, till they should have been investigated by the Legislature.

The trial came off at Niagara, on the 12th October, 1837, before Mr. Justice Macaulay and a special jury.* In accordance with his usual practice, in such cases, Mr. Mackenzie undertook his own defence; his Soli-

nals and greatledgers for several years are by him, the others being in the handwriting of Mr. John Callaghan, a lock-keeper on the canal, and a Mr. Hiram Slate, Mr. Merritt's partner in the Port Colborne Mills, and lately a clerk to Garrison & Little, Contractors. I strongly urged the Directors not to let Beaton touch the books any more until the Legislature had investigated them—as to Mr. Clark he does not pretend to write in them—but they have given Beaton the most ample opportunity of continuing his dishonest practices, and of their motives for so doing the public must judge. The Assembly will have to take such books and papers as they can get, and in such a state of erasures and amendments as will suit the detected persons. The Directors allowing Beaton an opportunity to tamper with the books of account, after what has been certified by their own resolution, looks like as if they felt they were in the boat together."

* The names of the jurors were: Jeffrey B. Hall, Walpole; Austin Morse, Stamford; Malcolm Laing, Stamford; Jacob Servos, Gainsboro'; Wm. Fitch, Canboro'; Dr. Raymond, Niagara; George Lawrence, Niagara; William Hixson, Clinton; Nelson Boughner, Sherbrooke; Peter W. Tonbrock, Grantham; Allan Simmerman, Grimsby; J. W. Perkins, Walpole.

citor, Mr. Price, making occasional suggestions as to the examination of witnesses. Mr. R. E. Burns and Mr. Roland Macdonald, of St. Catherines, were counsel for the plaintiff, Beaton.

Mr. Charles Richardson, who had been concerned in the destruction of Mackenzie's printing office, at York, in 1826, had been rewarded with the office of Clerk of the Peace for the Niagara District. By him the jury list was furnished. So deficient was it that Mr. Mackenzie obliged the officers to add to it over a hundred additional names. He caused others to be struck off as bad; and yet one Austin Morse, disqualified by law, who was a violent political opponent of the defendant, somehow got on the jury. Nor was his name on the official list of jurors. "If," Mr. Mackenzie pertinently asked, "this name was not put into the ballot-box, how did it come out?"

Mr. Mackenzie, before the suit was commenced, admitted in writing to the plaintiff's attorney the authorship of the alleged libel, and confident of the truth of his statements he had challenged much higher game than Beaton to make his allegations subject of judicial investigation;* but the parties who had the con-

* In a letter to the editor of the *Upper Canada Courier*, by whom he had been attacked for his strictures on the canal management, he threw out this challenge:—

"If Mr. Merritt and his friends choose to go a step farther, and place all my numbers before a jury of the country, and assert that they are untrue and published from unjustifiable motives and for improper purposes, there also I will meet them; the whole bar of Upper Canada, Whig and Tory, is at their service; the Judges are not said to be prejudiced in my favor, nor the Sheriff, and as to the proofs of authorship and publication, I will deliver on demand copies of the several numbers, each endorsed by my own signature, to any person Mr. Merritt's attorney may name. For my own part, I have all along deter-

trol of the canal, and were primarily responsible for the mismanagement, preferred to keep in the background and to put forward Beaton as the plaintiff. Mr. Mackenzie took care not to lose sight of this fact, and he determined in his address to the jury to take a latitude that would bring the conduct of Beaton's superiors under review. He asserted his right to make extracts from the three broadsheets, in one of which the alleged libel had appeared, with a view of explaining the motives he had in the publication. Mr. Justice Macaulay, with whom he had had the terrific literary duel which led to the destruction of his printing office eleven years before, interposed an objection. He did not think all the papers could be read. Mr. Mackenzie, referring to this circumstance, humorously replied: "The time has long gone past, but your lordship and myself will never forget it, when in an appeal to the public"—directed against the defendant—"your lordship cited the passage, 'The fool hath said in his heart there is no God;' adding that if the first half of the sentence were struck out, the Bible could be made to advocate infidelity." This gentle spurring of the memory of the judge, with the citation of an authority and a fact, caused his lordship to withdraw his objections. Mr. Mackenzie made a merciless analysis of the damaging evidence in the canal inquiry before the House of Assembly, placing the proved delinquencies of the managers in bold relief. The evidence was so plain that he declined to employ counsel in the courts in any matter whereof I consider myself correctly informed."

The plaintiff's attorney wrote to Mackenzie to send the papers, with a letter acknowledging the authorship and publication, and they were promptly forwarded.

dence proved Beaton's habits to be the reverse of temperate, and the books of the Company bore upon their pages ineffaceable evidence of the tampering to which they had been subjected. But the maxim then universally accepted, in the British dominions, "the greater the truth the greater the libel," was destined to obtain a dubious triumph. All night the jury were shut up, unable to agree; but next day they found a ground of unanimity in a verdict for the plaintiff, with two shillings damages.

CHAPTER III.

The Rolls of Revolt—The intended Convention—Crisis in Lower Canada—Collision between the "Sons of Liberty" and the Doric Club, in Montreal—Arrests for Sedition and Treason at Quebec—M. Dufort arrives in Toronto with Messages from Papineau—Proposal of Mackenzie to seize four thousand Stand of Arms, to arrest Governor Head and his Councillors, to obtain possession of the Archives and Garrison, establish a Provisional Government, and call a Convention—The Government is aware of the Conspiracy, but instead of taking Measures to prevent its coming to a Head, encourage a Revolt.

By the commencement of November, one thousand five hundred names were returned to Mr. Mackenzie of persons enrolled, and ready to place themselves under arms—if arms could only be procured—at one hour's notice. In the Home District, in which Toronto was situated, the attendance on drill weekly was deemed a duty. The Gore District, further west, was not much behind its metropolitan neighbor. From one end of it to the other, political unions were in the course of formation. They selected their leaders and reported themselves to Mr. Mackenzie, the Agent and Secretary of the Central Vigilance Committee. The organizations in the country were now called Branch Reform Unions; and they were numbered according to the order of their formation: that of Lloydtown being No. 1. It does not appear that the Unions were bound to secrecy by the obligations of an oath.

There were two kinds of organization. In addition to the Vigilance Committees and Reform Unions, about seventy delegates had been elected to take part in a Convention, who were to send Representatives to a British American Congress. The meeting of an approaching Convention, which had been determined upon in the previous August, continued to be alluded to, after the rising had been determined upon. And if the movement had proved successful, the Convention would undoubtedly have been held. Some of the Unions were anxious that a day for the meeting of the Convention should be fixed. Seventy delegates had been appointed in the Home District alone. Mr. Mackenzie declared it inexpedient to take any immediate steps for the meeting of the Convention; and he publicly stated his opinion that "the suspension of the *Habeas Corpus* act, illegal arrests, martial law, and the seizure of Reformers, with their books and papers, were among the tender mercies to be looked for at the hands of the Sullivan Council."

In Lower Canada the crisis had arrived. The Legislative Session, convened in August, had produced no reconciliation between the Governor and the Assembly. The House told the Earl of Gosford that they had not been able to derive from "His Excellency's speech, or from any other source, any motive for departing even momentarily" from their determination to withhold the supplies until the grievances of the country were redressed. The Governor replied to the Address, charging the House with virtually abrogating the constitution by a continued abandonment of their functions; and as soon as the members

\$10. Provisional Government of Upper Canada. No. 329

Navy Island, Upper Canada, December 27, 1837. Four months
after date, the Provisional Government of Upper Canada, promise to pay
to James Hervey Price, Esquire, on order, at the City
Hall, Toronto, Ten Dollars, for value received.

Entered by the Secretary.

J. Parson

Examined by the Comptroller.

David Gibson

W. L. MacRae

Chairman pro. tem. Ex. Com.



had left his presence, he issued a proclamation proroguing the Legislature. The popular agitation continued. Monster meetings were called in different parts of the country; at one of which, held at St. Charles, on the river Richlieu, on the 23d of October, five thousand persons are said to have been present. The Roman Catholic Bishop of Montreal, M. Lartigue, a relative of M. Papineau, who had before addressed a large body of ecclesiastics at Montreal to discourage insurrection, now, "impelled by no external influence, but solely actuated by motives of conscience," issued a pastoral enjoining the clergy and faithful to discountenance all schemes of insurrection. But the popular frenzy was too great to be at once brought under control, even by the powerful influence of the Roman Catholic Church. There is reason to believe, however, that the influence of the Roman Catholic clergy eventually did more than even the British troops to crush the insurrection in Lower Canada.

A society called the Sons of Liberty, formed in Montreal, and said to owe its paternity to Mr. Thos. Storrow Brown, extended its branches throughout the country.* On the 6th of November, a collision took place between the "Sons of Liberty," headed by Mr.

* I have before me an unpublished letter in French, giving an account of the commencement of the troubles, by one of the actors, by whom it was sent to a friend in New Orleans. After relating the arrest of the parties connected with *Le Libéral* at Quebec, he says: "Les chefs du parti populaire à Montréal s'imaginant qu'ils auroient le même sort, et qu'ils ne seroient pas plus respectés croiroient prudents de se tenir à l'écart pendant quelque temps. Brown, qui écrit mieux qu'il se bat, avait comme tu sais, formé une société sous le nom des fils de la liberté. Son projet réussissoit à merveille; chaque jour ce corps augmentoit en nombre, et déjà de pareilles sociétés se formaient dans le campagnes."

T. S. Brown, and an organization called the Doric Club, at Montreal. One of the rules of the Sons of Liberty required them to meet on the first Monday of every month. This was their regular day of meeting. There was no secret about it. The magistrates issued a proclamation forbidding them to walk in procession. In the morning, placards appeared on the walls, calling on the members of the Doric Club to "crush the rebellion in the bud." True to the call, many of them prepared to come out and attack the Sons of Liberty, should the latter make their appearance. In a large yard, opposite the Presbyterian church in Great St. James Street, the latter organization met, and passed several resolutions, in an orderly manner. When they came out, the members of the Doric Club confronted them. Each party afterwards accused the other of making the attack. Before long, the Sons of Liberty were chasing their opponents on Great St. James Street, amid cries of "Call out the guard ! call out the guard !" Mr. Brown received some injuries. The Doric Club men were soon reinforced ; and while they claimed a victory in a subsequent fight, the Sons of Liberty alleged that they only fled before the military, in company with the Tories. The truth seems to be that each party obtained a victory in turn. The Sons of Liberty did not begin to assemble till two o'clock ; and at half past four, two companies of soldiers and some flying artillery were called out. The office of *The Vindicator*, a Liberal paper, which had for a long time been publishing seditious articles, was sacked by the Tory mob, and the types thrown into the street. The house of Mr. E. Jolen, in Dorchester Street, was en-

tered; and the banner of the Sons of Liberty, with three guns—one of them said to be seven barrelled—and a sword were taken. Some of the windows of M. Papineau's house were broken; and the mob was with some difficulty restrained from destroying the building. Although some firearms were discharged on the first attack, nobody was killed.

On the 11th of November, Messrs Morin, Legare, Lachance, Chasseur, and Trudeau, editors, managers, and publishers of *Le Libéral*, were arrested for sedition at Quebec. This alarmed the popular leaders, who, for a time, made themselves less prominent. On the 16th of the same month, some further arrests were made; but this time they proceeded upon the graver charge of high treason.

While these occurrences were taking place in Lower Canada, a messenger bearing letters from M. Papineau, arrived in Toronto. To M. Dufort this mission had been entrusted.* The purport of the message was an appeal to the Upper Canada Liberals to support their Lower Canada brethren, when a resort to arms should be made. Mr. Mackenzie was convinced that the time to act had come. In the garrison at Toronto, there were only one soldier and three pieces of cannon; Sir F. B. Head having sent the troops to Lower Canada for the purpose, as he afterwards boasted, of entrapping Mackenzie and others into rebellion, by appearing to be wholly with-

* M. Dufort was on his way to Michigan, to get up an expedition to assist the Canadians, where, in connection with Judge Butler, a prominent member of the House of Representatives of that State, he formed a "council of war," embracing prominent and influential members of the House of Representatives, State's officers, and wealthy citizens.

out the means of resistance. Of the fifteen hundred men whose names had been returned on the insurrection rolls, only a very small proportion—perhaps not over one in five—had firearms of any description. There were lying in the City Hall four thousand muskets, which had been sent up from Kingston, and which were still unpacked. Mackenzie's plan was to seize these arms, together with the archives, the Lieutenant Governor, and the Executive Council; and by this means to affect a revolution, *sans coup férir*, without the loss of a single life. Chimerical as such a project would be, under ordinary circumstances, it must be remembered that the folly of Sir F. B. Head had left the Government at the mercy of any half hundred men who might have undertaken to carry such a project into effect.

Having made up his mind as to what ought to be done, Mr. Mackenzie one afternoon, early in November, called upon fourteen or fifteen persons with whom he had been acting in the organization of political societies throughout the country; and asked them to meet him that evening, at the house of Mr. Doel, on the north-east corner of Bay and Adeliade Streets.*

* Among the persons who assembled, on that night, to listen to a project of revolution, were: Dr. Morrison, a Lower Canadian by birth, who was practicing medicine in Toronto; Mr. John McIntosh, a Scotsman, who formerly owned and sailed a vessel on Lake Ontario, and who retired upon a moderate competence; Mr. John Doel, an Englishman, who by a brewery and the rise in the value of some real estate of which he was the owner, was well able to live on the interest of his money; Mr. Robert Mackay, a Scotsman, and grocer, in a good way of business; Mr. John Armstrong, a Scotsman and axemaker; Mr. Timothy Parsons, an Englishman, who kept a "dry goods" store; Mr. John Mills, a Scotsman by birth, and a hatter by trade; Mr. Thos. Armstrong, a Scotsman and carpenter, employing several men; Mr. John

They all attended. Dr. Morrison took the chair ; and Mr. Mackenzie proceeded to give his views of what course it would be proper to pursue, in the crisis which had arisen. Fortunately his own account of this meeting has been preserved.

“ I remarked, in substance, that we had, in a declaration adopted in July, and signed approvingly by many thousands, affirmed that our wrongs and those of the old thirteen colonies were substantially the same ; that I knew of no complaint made by the heir of the House of Russell in 1685, against the Government of England overturned three years thereafter, that could not be sustained against that of Canada ; that not only was redress from Britain hopeless, but that there was imminent danger that leading Reformers would be seized and sent to the dungeon ; that the House of Assembly had been packed through fraud—the clergy hired and paid by the State—the endowment of a hierarchy begun in defiance of the Royal pledge—the public credit abused and the provincial funds squandered—offices created and distributed to pay partisans—emigration arrested—discontent rendered universal—and government converted into a detestable tyranny ; while in Lower Canada chaos reigned, backed by the garrisoned troops ; and British resolutions to leave no check in the hands of the people, upon any abuse whatever, had passed the House of Commons. Law was a mere pretext to plunder people systematically with impunity—and education,

Elliott, an Englishman and an attorney ; and Mr. Wm. Lesslie, a bookseller and druggist, doing a good business. Mr. Elliott was never invited to attend another meeting.

the great remedy for the future, discouraged in Upper and unknown in Lower Canada—while defaulters, cheats, embezzlers of trust funds and of public revenue, were honored and encouraged, and speculators sheltered from the indignation of the people they had robbed. I stated, that when I saw how Ireland, the condition of which was fully understood in London, had been ruled, I had no hope for Canada, except in resistance, and affirmed that the time had come for a struggle, either for the rights of Englishmen in connection with England, or for independence. Canada, as governed, was an engine for the oppression of our countrymen at home.

“I spoke with great earnestness, and was only interrupted by some brief casual remarks.

“In adverting to the condition of society, I remarked, that Head was abhorred for the conduct of those he had upheld and cringed to; that in the city all classes desired a change—credit was prostrate, trade languishing—and asked if the proper change could be obtained in any possible way short of revolution?

“Still there was no answer.

“I stated that there were two ways of effecting a revolution: one of them by organizing the farmers, who were quite prepared for resistance, and bringing them into Toronto, to unite with the Toronto people; and the other, by immediate action.

“Dr. Morrison made some deprecatory or dissenting remark, but I continued.

“I said, that the troops had left; that those who had persuaded Head to place four thousand stand of

arms in the midst of an unarmed people in the City Hall, seemed evidently not opposed to their being used; that Fort Henry was open and empty, and a steamer had only to sail down to the wharf and take possession; that I had sent two trusty persons, separately, to the garrison, that day, and it was also 'to let;' that the Lieutenant Governor had just come in from his ride, and was now at home, guarded by one sentinel; and that my judgment was that we should instantly send for Dutcher's foundry-men and Armstrong's axe-makers, all of whom could be depended on, and, with them, go promptly to the Government House, seize Sir Francis, carry him to the City Hall, a fortress in itself, seize the arms and ammunition there, and the artillery, etc., in the old garrison; rouse our innumerable friends in town and country, proclaim a Provisional Government, send off the steamer of that evening to secure Fort Henry, and either induce Sir Francis to give the country an Executive Council responsible to a new and fairly chosen Assembly to be forthwith elected, after packing off the usurpers in the 'Bread and Butter Parliament,' such new Assembly to be convened immediately; or if he refused to comply, go at once for Independence, and take the proper steps to obtain and secure it.

"I also communicated, in the course of my remarks, important facts relative to Lower Canada, and the disposition of her leading men.

"Dr. Morrison manifested great astonishment and impatience toward the close of my discourse, and at length hastily rose and exclaimed that this was treason; if I was really serious, and that if I thought I

could entrap him into any such mad scheme, I would find that he was not my man. I tried to argue with him, but finding that he was resolute and determined, soon desisted.*

“That the proposition I made could have been easily and thoroughly carried into effect, I have never for a moment doubted; and I would have gone about it promptly, in preference to the course afterwards agreed upon, but for the indecision or hesitancy of those who longed for a change, but disliked risking anything on such issues. I made no request to any one about secrecy, believing that the gentlemen I had addressed were honestly desirous to aid in removing an intolerable burthen, but that much difference might exist as to the best means of doing so; and that the Government would be kept inactive, even if it knew all—its pretended friends, headed by a fool, pulling one way, and its enemies another.”

About the 18th of November another plan of operation was decided upon. There were about a dozen persons present when the decision was come to. The organized bands, distributed over the country, were to collect together, and march upon Toronto by Yonge Street, the main northern entrance to the city, on Thursday, the 7th of December.† The management

* Dr. Morrison, I learn, from a reliable source, had no real objection to the scheme; but he distrusted some one in the room, and was afraid to commit himself. This he told to my informant; but who it was that was the object of his suspicion he did not state. The circumstance of his afterwards agreeing to a far more dangerous project for effecting the same object, is sufficient guarantee of the correctness of this information.

† In a public dispatch to Lord Glenelg, dated Toronto, December 19th, 1837, Sir F. Head affects to have known that the outbreak was to have taken place on the 19th; and in *The Emigrant*, he states that Mackenzie had fixed

of the enterprise was to be confided to Dr. Rolph, as sole executive; and the details were to be worked out by Mr. Mackenzie. The correspondence with Papi-neau and the other popular leaders in Lower Canada, was to be conducted by the executive; and he was to communicate intelligence of their intended movements to his associates. It was understood that the day named for the rising should not be altered by any less authority than that by which it had been fixed. The insurgent forces were to be brought as secretly as possible to Montgomery's hotel, on Yonge Street, about four miles north of the city of Toronto, between six and ten o'clock, at night, when they were to march upon the city. A force of between four and five thousand was expected. The four thousand stand of arms in the City Hall were to be seized; the Lieutenant Governor and his chief advisers were to be captured and placed in safe custody; the garrison was to be taken possession of. A convention, the members of which had begun to be elected in the previous August, was to be called; and a constitution, which had already assumed shape and form, was to be submitted for adoption.* In the meantime, Dr.

upon this day because a girl of the name of Julia Murdock was to be executed for poisoning her mistress, Mrs. James Henry, of Toronto; as a number of men could be brought into the city under the guise of witnessing the execution. The girl, he pretends, was to be rescued by "a number of fine fellows," "from a horrid and ignominious death." The whole story, however it got into the brain of Sir F. Head, is a pure fiction. "A number of the best men in the Province," he tells us, "consented to be agitators in such a cause" as the reprieving of the girl. However this may be, the files of Mr. Mackenzie's paper show that he did nothing to increase the agitation.

* See Appendix E.

Rolph was to be administrator of the Provisional Government.* Such was the helpless condition of the Government, and so few were its willing supporters supposed to be, that all this was expected to be effected without the effusion of blood.

* It is the fate of persons who fail in an enterprise of this kind to have their motives misrepresented by their cotemporaries; and it is sometimes not till the prejudice of their time has passed away that justice is done to them. Sir F. Head frequently stated, in written documents, that the object of the insurgents was to rob the banks and set fire to the city; forgetting that they were mainly composed of the wealthiest farmers in the county of York, the very class whom he (when it suited him) called "yeomen" and "gentlemen." "There can be no doubt," he wrote on one occasion, "that could Dr. Rolph and Mackenzie have succeeded in robbing the banks, they would immediately have absconded to the United States." "Nothing," wrote Mr. Hincks, now Governor of British Guiana, in *The Toronto Examiner*, "in Sir F. Head's writings has given more disgust than this assertion." Of Dr. Rolph, Mr. Hincks proceeded to say that "he was the most talented and highly educated man in the Province, and that there never was a man less likely to be influenced by pecuniary considerations." "With regard to Mackenzie," Mr. Hincks added, "it has been so much the fashion to accuse him of every crime which has disgraced humanity, that people really forget who and what he is. We can speak impartially of Mr. Mackenzie more particularly, because those who know us well, know that we have never approved of his political conduct. Let us not be misunderstood. We agreed with him on certain broad principles, more particularly Responsible Government, and when those principles were involved, we supported him, and shall never regret it. As a private individual we are bound in justice to state that Mr. Mackenzie was a man of strict integrity in his dealings, and we have frequently heard the same admitted by his violent political opponents. He was not a rich man, because he never sought after wealth. Had he done so his industry and perseverance must have insured it. We do not take up our pen to defend the political characters of either Dr. Rolph or Mr. Mackenzie; but when these false and malignant slanders are uttered, we shall always expose them. Are there ten people in Upper Canada who believe that the object of either Dr. Rolph or Mr. Mackenzie was to rob the banks and abscond to the United States?" This was written in 1838; and we venture to say that there is not to-day a single person in Upper Canada who, in good faith, would answer this question in the affirmative. In pecuniary matters, both Dr. Rolph and Mr. Mackenzie were men of the highest integrity; a fact to which their bitterest opponents would now readily testify.

Unless it were the day of the intended outbreak, none of the movements designed to end in armed insurrection and revolution were unknown to the Government. In the beginning of September, intelligence of the purpose to which the organizations in the county were being turned, was conveyed to the Lieutenant Governor.* Before the middle of November, a short time prior to the fixing of the day of rising, two Methodist ministers, Revs. Egerton Ryerson and John Lever, called upon Attorney General Hagerman one night at nine o'clock, and related what was going on in the townships of East and West Gwillimburg, Albion, Vaughan, and other places. One of them was fresh from these scenes of excitement, where he had been travelling in a pastoral capacity. They denounced to the Attorney General treasonable organizations, treasonable trainings, and treasonable designs upon Toronto. Mr. Hagerman was inclined to laugh in the faces of his informants. He did not believe, he said, there were fifty men in the Province who would agree to undertake a descent upon Toronto; he would like to see the attempt made. One of the preachers replied by declaring his belief that there were, in the Home District alone, more than five hundred persons who had already determined upon such an attack. The same representations had already

* Mr. Charles Fothergill stated, in a pamphlet which he published, that, "Early in September last [1837] the Governor was made acquainted with the nature, extent, and objects of these secret Committees in one of the most seditious quarters in the Home District by a magistrate of Pickering [Fothergill], who had taken measures to watch their every motion. But it was all without any useful effect. Sir Francis Bond Head was in such hands, that, if a prophet had risen from the dead, his admonitions would have been equally ineffectual."

been made to the Lieutenant Governor, in person ; but as he paid no attention to them, this appeal was made from the Governor to the Minister. But it was in vain. The one was found to be as deaf and as obstinate as the other.

On the 31st October, Sir Francis Bond Head had refused the offer of a volunteer company to guard the Government House ; preferring to wait, as he expressed it, till the lives or property of Her Majesty's subjects should require defence. To the very last, the Lieutenant Governor refused to resort to any measure of precaution against the threatened insurrection. On the 2nd December, a free-mason, who resided in Markham, informed Capt. Fitzgibbon that bags full of pike heads and pike handles had been collected ; and that he had observed all the signs of a rapidly ripening revolt. Capt. Fitzgibbon sought out Judge Jones, to whom he repeated what he had heard. They went before the Executive Council together, where the statement was once more repeated. Mr. Justice Jones exclaimed : " You do not mean to say that these people are going to rebel ! " Capt. Fitzgibbon replied that undoubtedly they were ; when Mr. Jones, turning to the Lieutenant Governor, contemptuously exclaimed, " Pugh ! pugh ! " The length to which the Judge carried his obdurate scepticism may best be illustrated by the reception he gave Capt. Fitzgibbon on the night of the outbreak. " The over-zeal of that man," he complained, " is giving me a great deal of trouble " The insurgents were already at Montgomery's.

Nor is this all. Sir Francis Bond Head made it a matter of boasting that, " in spite of the remonstrances

which, from almost every district in the Province," he received, he allowed Mr. Mackenzie "to make deliberate preparation for revolt;"* that he allowed him "to write what he chose, to say what he chose, to do what he chose;" that he offered no opposition to armed assemblages for the purpose of drill. Nor did he rest satisfied with doing nothing to check preparations, the nature of which he understood so well; he encouraged the outbreak.† For this purpose he sent all the troops from the Province;‡ and boasted that he had laid a trap to entice Mackenzie and others into revolt.§ Nothing could have been more culpable than this conduct of the Lieutenant Governor. To encourage men to the commission of an act, and then to punish its performance with death, as in the case of

* Vice Regal speech on the opening of the third session of the thirteenth Parliament of Upper Canada, December 28, 1837.

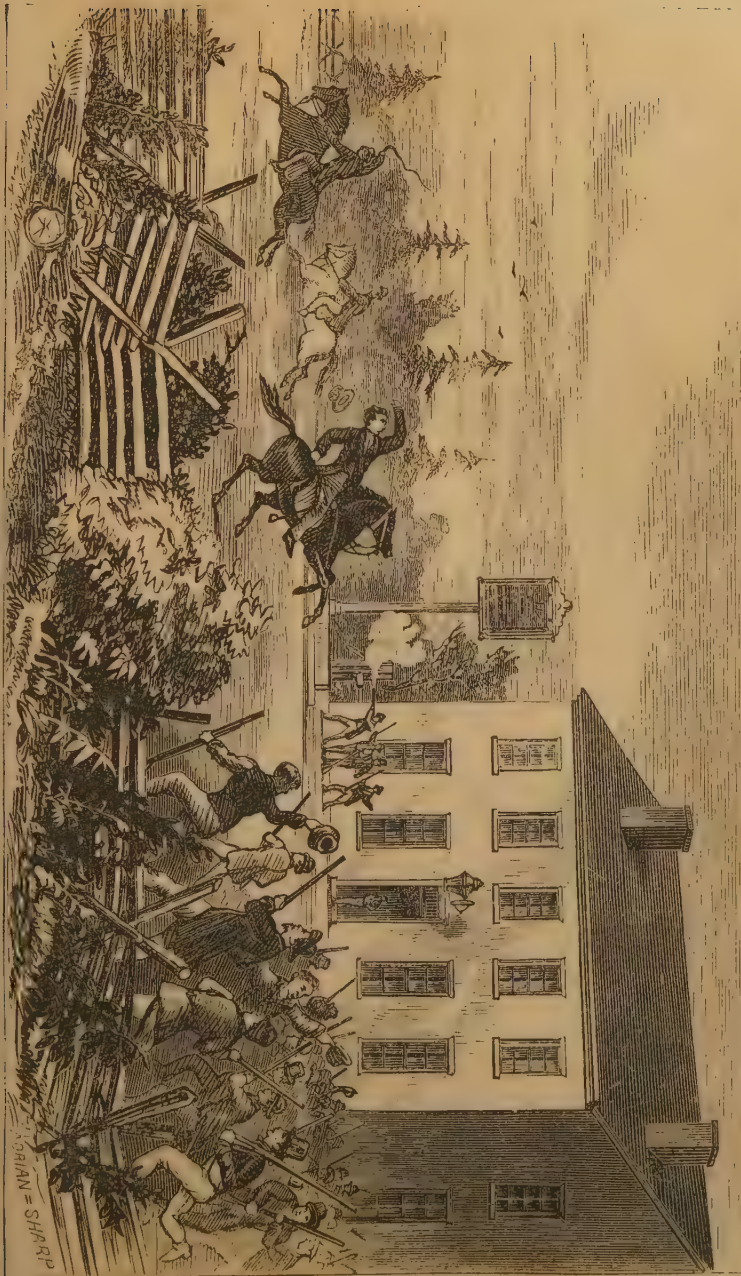
† "I considered that if an attack by the rebels was inevitable, *the more I encouraged them to consider me defenceless the better.*"—*Narrative*, p. 329.

‡ In his *Narrative*, Sir Francis Bond Head boastingly reports, "I purposely dismissed from the Province the whole of our troops," p. 337. But when this extraordinary conduct on the part of the Lieutenant Governor had been severely censured both in Parliament and by the Press, he denied that he had sent away the troops. "Many people," he says in *The Emigrant*, "have blamed, and I believe still blame, me for having, as they say, sent the troops out of the Province. I, however, did no such thing." He then proceeds to throw on Sir John Colborne the blame of an act, of which, before he had discovered that it was improper, he had eagerly claimed all the credit. "It was the duty of the Government," said Sir Robert Peel, in a speech in the House of Commons, January 16, 1838, "to have prepared such a military force in the colony as to have discouraged the excitors of the insurrection from pursuing the course they did." How great then must be the condemnation of the Lieutenant Governor!

§ The Earl of Durham, in his Report on British North America, January 31, 1839, says: "It certainly appeared too much as if the rebellion had been purposely invited by the Government, and the unfortunate men who took part in it deliberately drawn into a trap by those who subsequently inflicted so severe a punishment on them for their error."—pp. 59, 60

Samuel Lount and Peter Matthews, is more like murder with malice aforethought than any thing else to which it could possibly be compared.*

* Sir Francis Bond Head, however, was not responsible for the executions. He had left the Province before they took place; and many who were never admirers of his policy believe that he had too much magnanimity of character to have pursued a vindictive course in needlessly causing an effusion of blood. He released several prisoners, with arms in their hands, as soon as they were captured, though some of them, contrary to good faith, were arrested again.



DEATH OF COL. MOODIE.

CHAPTER IV.

Persons in the Secret of the intended Revolt—Commencement of the Rebellion in Lower Canada—The Battles of St. Denis and St. Charles—Mackenzie sets out to the Country to Organize the Revolt—An Appeal “to Arms”—Military Leaders Appointed—Mackenzie takes no Command—Change of the Day of Rising—Lount brings only eighty or ninety Tried Men to Montgomery’s Hotel—A Guard placed on the Road leading to Toronto—Mackenzie cannot entice the Men to March on Toronto—He and three others set out to ascertain the State of the City—They take two Prisoners, one of whom shoots Anderson, one of his Guards—Mackenzie and Powell attempt to shoot at one another—Powell escapes and informs the Governor—How and by whom Col. Moodie was shot—Lount’s men disheartened by the death of Anderson—The Rebel Commissariat without Provisions—Messengers sent to the City never return—Before morning Mackenzie again urges a March on the City—Next day (Tuesday, Dec. 5th) the Insurgent Force numbers Seven or Eight Hundred Men—Sir Francis Bond Head sends in a Flag of Truce to the Rebel Camp—Failure of the Negotiations—March for the City—Firing between the Loyalists and the Insurgents—Disorderly Retreat of the Latter—Burning of Dr. Horne’s House—Escape of Dr. Rolph (Wednesday the 6th)—Western Mail intercepted—Division in the Rebel Camp on Thursday Morning—Council of War—A Party sent to burn the Don Bridge and intercept the Eastern Mails—Sir Francis Bond Head, having received Succor from a distance, determines on an Attack—The Battle of Yonge Street—Defeat of the Insurgents—Burning of Montgomery’s Tavern and Gibson’s House.

By some means a knowledge of the intended rising reached several persons, from whom Mackenzie would have desired to keep it a secret. Dr. Morrison, who had so vehemently opposed the project of seizing the arms in the City Hall, and taking possession of the Government in the way it was first proposed was a

party to the arrangement finally agreed upon. He is believed to have disclosed the plan of insurrection to several persons. What was going on came to the ears of Dr. Baldwin.* The latter, it would seem, never mentioned it to his son, Robert; for that gentleman declared that he had no knowledge of it.† Mr. Bidwell had refused to become a member of the proposed convention, and he does not appear to have attended the meetings at which insurrection was organized. There seems to be no reason to believe, however, that he is entitled to plead ignorance of the movement. He was asked his opinion on the legality of the shooting matches; he was the bosom friend of Dr. Rolph, with whom he was in the habit of cordially co-operating; and it has been stated that, without working with the dozen persons in Toronto, who were actively engaged in the organization of the movement, he was secretly giving all the assistance he could.‡ He accepted expatriation at the

* Dr. Baldwin's Evidence before the Treason Commission, Toronto, December 13, 1837.

† His own statement, read January 2, 1838, was:—"With respect to the insurrection itself, I had no personal knowledge whatever of either the conspiracy itself, the intention to rise, or the attack on the city, or the persons said to be implicated in it; and since my return from England in February last I have been wholly unconnected with the parties or politics of the Province."—*Appendix to Assembly's Journals*, 1837-8, page 486.

‡ The following extract from a letter addressed to a person in Toronto is very explicit:—"When I was in Toronto, in the fall of 1837, I became acquainted with Mr. Bidwell. From him I learned the projected revolution, and general calculations to be entered into. To him, my brother-in-law, Judge Butler [a prominent member of the House of Representatives in Michigan] made several pledges in relation to my rendering assistance to the Provincial army, if a general concert was required." By the writer of this letter Mr. Dufort, who was in Toronto with letters from Mr. Papineau, was introduced to Mr. Bidwell

hands of Sir Francis Bond Head, when the revolt had failed.*

Two days before the insurgents occupied Montgomery's Hotel, Mr. Price advised a neighbor whose property was in an exposed position to make a conveyance of it, as something was likely to happen in the country.

There were a great many other persons who had also learned of the intended revolt, in the way it

to "consult on the proposed connection of the two Provinces." This statement was published some years ago by Mackenzie, in his *Flag of Truce*, without eliciting any denial from Mr. Dufort, whose attention was specially directed to it. On the 30th August, 1837, Mr. Bidwell wrote to Dr. O'Callaghan expressing his opinion that "all hope of justice from the authorities of England seems to be extinguished." At the same time, it is proper to observe that all the evidence produced against him by Sir Francis Bond Head, except the option to leave the Province or run the risk of having his letters opened, is worthless. It is true that his name was inscribed on the flag left by the rebels when they retreated from Montgomery's; but the Lieutenant Governor did not know that it was an old flag of 1831 with the last figure changed into a seven. Yet such is the fact.

* The day before the outbreak the Lieutenant Governor was sitting in a room in the Government House, the windows of which were blocked up with rough timber and loopholed. Mr. Bidwell sent in his card. When he was admitted to an interview he was apparently so alarmed as to be unable to speak. Sir Francis Bond Head, holding Mr. Bidwell's letters in his hand, pointed with them towards the window, saying: "Well, Mr. Bidwell, you see the state to which you have brought us!" "He made no reply," writes the ex-Lieutenant Governor, "and as it was impossible to help pitying the abject, fallen position in which he stood, I very calmly pointed out to him the impropriety of the course he had pursued, and then observing to him, what he knew well enough, that if I were to open his letters his life would probably be in my hands, I reminded him of the mercy as well as the power of the British Crown; and I ended by telling him that, as its humble representative, I would restore to him his letters unopened, if he would give me, in writing, a promise that he would leave the Queen's dominions forever. * * * He retired to the waiting-room, wrote out the promise I had dictated, and returning with it, I received it with one hand, and with the other, according to my promise, I delivered to him the whole of his letters unopened. The sentence which Mr. Bidwell passed upon himself he faithfully executed."—*The Emigrant*.

came to the knowledge of Dr. Baldwin; and there were others in the background who were quietly forwarding their wishes for its success, as Mr. Bidwell appears to have been.

Previous to the day fixed for the outbreak in Upper Canada, the clash of arms had been heard in the Lower Province. On the 5th December, Lord Gosford proclaimed martial law, and offered rewards for the apprehension of the patriot leaders.* A detachment of twenty cavalry was sent from Montreal to St. Johns to arrest Dr. Davignon and Mr. Demaray, two prominent individuals, who had attended a great meeting of the six counties, at which seditious language was alleged to have been used. The prisoners were ironed, and then seated upon the bare boards of a wagon, confined in a most painful posture. Instead of being taken directly to Montreal by the railroad, it was resolved to take them, in the condition of felons, a distance of thirty-six miles, round Chambly and Longueuil, as if for the purpose of striking terror into the neighboring population. When the cavalcade had come near the borders of the St. Lawrence, it was met by a small party of Canadians who put the troops to flight and rescued the prisoners.

Dr. Nelson, who lived at St. Denis, and besides following his practice, carried on a brewery and distil-

* The following are the men and the figures:—"Four thousand dollars for Louis Joseph Papineau; two thousand dollars each, for Dr. Wolfred Nelson, Thos. Storrow Brown, Edmund Bailey O'Callaghan, Joseph T. Drolet, Jean J. Girouard, William H. Scott, Edward E. Rodier, Amury Girod, Jean O'Chenier; and four hundred dollars each for Pierre Paul Demaray, Joseph Francois Davignon, Julien Gagnon, Pierre Amiot, Louis Perrault, Dr. Alphonso Gauvin, Louis Gauthier, Rodolph Desrivieres."

lery, hearing of the movement for the arrest of himself and the other leaders, prepared for resistance. From Lieutenant Weir, who was one of Col. Gore's messengers, who appeared at St. Denis in plain clothes, and was arrested when his mission became known, the first intelligence of the number of troops being sent on is said to have been learned. Five companies of troops, with one field piece, and a detachment of Montreal Cavalry, under command of Col. Gore, arrived at St. Denis, on the morning of the 23d of November. The battle commenced about nine o'clock, and lasted till nearly four in the afternoon; being carried on with great bravery on both sides. From a large stone store, four stories high, some of the men, under the intrepid Dr. Nelson, kept up a galling fire on the troops; till the latter, fatigued by a twelve hours' march through deep mud before the battle commenced, their ammunition nearly exhausted, and seeing that the patriots were being largely reinforced, gave way. They left behind one cannon, some muskets, and five wounded. Captain Markham was carried away wounded by several shots. The loss of the patriots was thirteen; that of the British troops much larger.* In this encounter, Dr. Nelson was completely successful; but he did not find himself in a position to sustain a prolonged contest.†

* Dr. Nelson, in an account which he has given of the affair, says: "It could never be accurately ascertained what the loss of the besiegers was; but it must have been considerable." One patriot account places it at fifty, another at one hundred and twelve; but the latter figure must be an exaggeration.

† If reliance can be placed in the following extract from a manuscript letter in my possession, written by one of the insurgents, the parish priest of St.

Shortly after Col. Gore was ordered to return to St. Denis; and on the 2nd of December, he marched from Sorel with eight companies and three field pieces; but the few remaining insurgents had abandoned the place the night before his arrival. Dr. Nelson, as well as Papineau, Brown, and others, escaped to the United States. The property of Dr. Nelson was destroyed, with the fortified house and defences.

At St. Charles, the insurgents, under Mr. T. S. Brown, suffered a reverse. On the 25th of November, five companies of the Royals, two companies of the 66th, with two pieces of artillery, and a small cavalry force, under Col. Wetherall, marched on the town. The whole force was between three hundred and four hundred men. The house of M. Debartzch, built in the substantial manner of an old French château, had been taken possession of by the insurgents, and the walls were pierced for the use of guns. Several acres of ground were enclosed by barricades, in the form of a parallelogram, between the Richlieu river and the foot of a hill behind the house. This barricade was formed by the trunks of trees banked up with earth. The night before the battle, Brown sent a

Denis wielded the thunders of the Church with more effect than Col Gore had used his soldiers: "Wetherall qui voyait qu'il n'avait pas à faire à des enfans, envoya chercher le curé de St. Denis et lui dit d'écrire aux habitans de St. Denis que, s'ils ne se rendoient pas, il les vouerait aux tormens de l'enfer, et qu'il leur refuserait la sepulcre. * * * Le plan formait par le Col. Anglais reussit à merveille, et sur cinq cents hommes que commandait Nelson le dimanche au soir, il ne s'en trouve plus que cinquante lundi au matin qui ont pu resister au menaces de leur curé." Col. Gore, in his dispatch of the 7th of February, describing the result of his march upon St. Charles, says: "I was accompanied by Mons. Crenier, the parish priest, who gave me every information in his power." At St. Hyacinthe the priest performed a like friendly office; in fact, the priests did more than the troops to put down the rebellion.

number of the men from the camp to ascertain whether the troops were approaching; very few of them returned; and when the battle came on, he had only a handful of men, wretchedly armed, and in every way very ill prepared to encounter British troops. They had nothing but fowling pieces, and only about one hundred and fifty of these; many of them sadly out of repair. The real leaders to whom the people looked up were absent; and the insurgents had not much faith in "General" Brown's military skill. He had lost an eye in the affray of the 6th of November, at Montreal; and as the troops were approaching, he was thrown from his horse on the frozen ground and severely injured. When they arrived within range, he was outside the camp, having been to the village to beat up reinforcements there. When the firing was commenced by the troops, he did not return to the camp; and at the end of little more than an hour, he was on his way to St. Denis, and those within the stockade, at the commencement, who were not killed, were on the retreat or were taken prisoners. The barricades were stormed and carried; and every building within the enclosure was burnt, except the house of M. Debartzch. "The slaughter on the side of the rebels," writes Col. Wetherall, "was great." "I counted," he adds, "fifty-six bodies, and many more were killed in the building and the bodies burnt." He was much censured for what was deemed unnecessary slaughter.

This reverse was destined to have a discouraging effect upon the insurgents, in Upper Canada, where the work of final organization had commenced. Military

leaders had to be chosen, and each assigned his post of duty. A tour of the neighboring country had to be made; and this duty fell to Mr. Mackenzie. On the evening of the 24th of November—less than twenty-four hours before the defeat at St. Charles—he left Dr. Rolph's house, on this mission. Just before starting, he mentioned to one or two persons who had not been parties to the plan of rising, what was going to take place; but he was very careful not to communicate the intelligence to any one on whose secrecy he felt he could not rely. Except in a single instance, no notices were sent beyond the limits of the Metropolitan county of York. A little after dark, the first night, Mr. Mackenzie, and a printer whom he had taken with him to strike off a revolutionary placard, arrived at a farmer's house about six miles from Toronto, on the east side of Yonge Street. Some cases of type and a card press, with reams of variously colored paper, were taken for the use of the printer. Next morning an appeal to freemen to rise and strike for liberty was begun to be committed to type.* When it was ready for distribution, the printer set about its circulation. While engaged in distributing the papers, he stumbled upon a crowd of people at an auction, near Hog's Hollow, some six or seven miles north of the city, on Yonge Street. The Tories became incensed at reading the revolutionary document; and as one of them, in his rage, was about to destroy the papers, the printer, who had never been told of the intended rising, threatened him with speedy retribution from the patriots, if he did not desist; adding, to

* See Appendix F.

give force to his menace, that they were already on the road. The printer must have guessed at the object of the document he had printed; and having partaken somewhat too freely of liquor, appeared to have divulged a secret with which he had never been entrusted. Some fighting occurred between the two parties of whom the auction crowd proved to be composed. On his return to the house where he had left his types and press, the printer found the owner in a great state of alarm. The suspicious implements were hurried out of the house; and both types and press were thrown to the bottom of a well, whence the press was never recovered.

Meanwhile, Mr. Mackenzie visited Lloydtown, Stouffville, Newmarket, and other places in the North. His business was to make the necessary preparations for carrying out the plans agreed upon. Having no knowledge of military operations, he refused to assume a position of command for which he was by experience entirely unfitted. This determination he announced at Lloydtown, several days previous to the intended march upon Toronto. Samuel Lount and Anthony Anderson were then named to commands. Mr. Mackenzie deemed it essential to the success of the movement that it should be directed by persons of military skill and experience. He wrote to Van Egmond, who had been a colonel under Napoleon the Great, to be at Montgomery's Hotel, on the evening of the 7th, to lead the forces into the city,* and he

* Van Egmond was a native of Holland and, as a colonel in Napoleon's army, had seen much service. He also held an English colonelcy. He owned

placed much reliance upon him and other veterans whose services he deemed it of the utmost importance to secure.

On the night of the 3d of December, Mr. Mackenzie, who had now been nine days in the country organizing the movement, arrived at the house of Mr. Gibson, some three miles from the city. He there learnt with dismay that, in his absence, Dr. Rolph had changed the day for making a descent upon Toronto, from Thursday to Monday.* Various reasons have been assigned for this change. There was a rumor that a warrant was out for the arrest of Mr. Mackenzie for high treason—which was true—and that cannon were being mounted in the parks surrounding the Government House, which was false. The publication of certain militia orders is said to have been regarded as proof that the Government was on

thirteen thousand acres of land in the western part of the country; and entered the service of the rebels for patriotic rather than military motives.

* Silas Fletcher, who was a prominent actor in the rebellion, wrote to Mr. Mackenzie, from Fredonia, N. Y., July 29, 1840:—"On the Saturday afternoon previous to the outbreak back of Toronto, between three and five, I called to see Dr. Rolph at his house on King [Lot] Street, and asked him, as he was the Executive, whether any alteration was to be made or ordered by him as to the time of rising. He said that, as those who had the direction of the affair had, with his consent, fixed the day for Thursday, the 7th of December, at Montgomery's as a place of rendezvous, he would make no change or alteration whatever; you had left the city previously, to carry into effect a general agreement to rise on the 7th, on Thursday, and had informed me that you were on your way to Stouffville, to give and send round the circulars agreed on, so that all might come properly at the time settled upon. Dr. Rolph's exact words to me were; 'No, by no means! I shall expect every man to be active and vigilant, so as to be able to get up the expedition, and come in on the 7th and take the city.' On the same afternoon, (Saturday, the 2d,) I returned to Newmarket, and met with Thomas Lloyd and other friends on Sunday, who told me that Dr. Rolph had sent William Edmondstone, on

the alert.* The Lieutenant Governor, it was said, had a letter from the country disclosing all the plans of the patriots; and that the Council, concluding at last that there was real danger, had commenced a distribution of arms. The real truth was, as the verbal message sent to Lount stated, Dr. Rolph became alarmed, under the impression that the Government was giving out the arms at the City Hall, and arming men to fill the garrison and form companies to arrest the leaders of the expected revolt throughout, between then and the next Thursday; that they had already distributed one hundred stand of arms, and had become aware of the day fixed for the rising. These circumstances, the message added, rendered it necessary that Lount and his men should be in town on Monday night.† Regarding the change of day as a fatal error, Mackenzie despatched one of Gibson's servants with a message to Lount, who resided near Holland Landing, some thirty-five miles from Toronto, not to come till the Thursday, at first agreed upon. But it was too late. The messenger returned on Monday afternoon with the reply of Lount, that the

the same evening I had seen him, with orders to raise a sufficient number of men to come down and take the city within the next 48 hours—this is by the Monday night.

* There was something in this, as the following resolution passed at a meeting held at Pickering, on the 2nd of November, shows; but there is no reason to suppose that it influenced Dr. Rolph's decision:

“*Resolved*, That there being a report in circulation that the local militia are to be called out to Toronto, to guard the garrison, we are resolved not to turn out, except unanimously, and that we will all stand together to a man, and that, if we are compelled to fight, we will fight against the enemies of our country and not against its friends.”

† Both Mr. Lount and Mrs. Lount told Mr. Mackenzie that this was the substance of the verbal message.

intended rising was publicly known all through the North ; that the men had been ordered to march, and were already on the road. The rude pike formed the weapons of the majority ; a few had rifles ; there were no muskets.

Much annoyed at the unexpected change in the programme, Mackenzie, with the natural intrepidity of his character, resolved to make the best of it. When Lount arrived, in the evening, he brought only about eighty or ninety men, exhausted with a march of between thirty and forty miles through deep mud, and dispirited by the news of the reverse in Lower Canada. Though Dr. Rolph had met Mackenzie that morning at Mr. Price's house, on Yonge Street, a couple of miles or so from Toronto, they had no intelligence of the state of the town after ten o'clock. Rolph had returned, and no messenger came to bring Mackenzie and his friends any news of what was going on in the city. Regarding it as all important that communication with the city should be cut off, for the purpose of preventing any intelligence being sent to the Government, Mackenzie advised the placing of a guard upon the road ; and that the handful of jaded men who had arrived, should summon all their powers of endurance, and march on the city that night. No one seconded his proposal. Lount, Lloyd, and Gibson all protested against what they regarded as a rash enterprise. They deemed it indispensable to wait till the condition of the city could be ascertained, or till they were sufficiently reinforced to reduce the hazard of venture, in which all concerned carried their lives in their hands, to reasonable limits.

Thus the golden opportunity was lost. Delay was defeat. At this time the number of men under Lount, reinforced as they would have been in the city, would have been quite sufficient to effect the intended revolution; since the Government was literally asleep, and it was not embarrassed by a superfluity of true friends.

Failing in this proposal, Mr. Mackenzie next offered to make one of four who should go to the city, ascertain the state of matters there, whether an attack would be likely to be attended with success, spur their friends into activity, with a view to an attack the next evening, and bring Drs. Rolph and Morrison back with them. Captain Anderson, Shepard, and Smith, volunteered to join him. They started between eight and nine o'clock. Before they had proceeded far they met Mr. John Powell, with Mr. Archibald Macdonald mounted, acting as a sort of patrol. Mackenzie pulled up, and with a double-barrelled pistol in his hand, briefly informed them of the rising; and adding that, as it was necessary to prevent intelligence of it reaching the Government, they must surrender themselves prisoners, and in that character go to Montgomery's hotel, where they would be well treated. Any arms they might have upon their persons, they must surrender. They replied that they had none; and when he seemed sceptical as to the correctness of the reply, they repeated it. Mackenzie then said: "Well, gentlemen, as you are my townsmen and men of honor, I should be ashamed to show that I question your word by ordering you to be searched."

Placing the two prisoners in charge of Anderson and Shepard, he then continued his course, with his remaining comrade, towards the city. Before they had got far, Powell, who had returned, rode past them. While he was passing, Mackenzie demanded to know what was the object of his return, and told him, at his peril, not to proceed. Regardless of this warning, the Government messenger kept on. Mackenzie fired at him over his horse's head, but missed his mark. Powell now pulled up; and coming alongside Mackenzie placed the muzzle of a pistol close to his antagonist's breast. A flash in the pan saved the life of the insurgent chief.

Macdonald now also came up on his return. He seemed much frightened; and being unable to give any satisfactory explanation was sent back, a second time, by Mackenzie. In the meantime, Powell escaped. He dismounted, and finding himself pursued, hid behind a log for a while; and then by a devious course proceeded to Toronto. He at once proceeded to Government House, and aroused from his slumbers the Lieutenant Governor, who had gone to bed with a sick headache. His Excellency placed his family on board a steamer in the bay—the winter being unusually mild, there was no ice to impede navigation—in company with that of Chief Justice Robinson, ready to leave the city if the rebels should capture it. Mackenzie, having sent his last remaining companion back with Macdonald to Montgomery's hotel, now found himself alone. A warrant had for some time been out for his arrest, on a charge of high treason, and the Government, informed of the presence of the

men at Montgomery's, was already astir. It would have been madness for him to proceed, companionless to the city, into the very jaws of the lion.

He turned his horse's head and set out for Montgomery's. Before he had proceeded far he found, lying upon the road, the dead body of Anderson, who had fallen a victim to Powell's treachery. Life was entirely extinct. Anderson and Shepard, as already stated, were escorting Powell and Macdonald as prisoners to the guard-room of the patriots at Montgomery's Hotel. Powell, who, on being captured, had twice protested that he was unarmed, slackened the pace of his horse sufficiently to get behind his victim, when he shot him with a pistol through the back of the neck. Death was instantaneous. Shepard's horse stumbled at the moment, and Powell was enabled to escape. As there was now only one guard to two prisoners, he could not have hoped to prevent their escape. Macdonald followed his associate.

On which side life had first been taken it would be difficult to determine; for, when Mackenzie got back to Montgomery's Hotel, he found that Col. Moodie, inflamed by liquor, had, in trying to force his way past the guard at the hotel, at whom he fired a pistol, been shot by a rifle. The guards who returned the fire missed their aim; when one of the men who was standing on the steps, in front of the hotel, levelled his rifle at Col. Moodie, of whom the light of the moon gave him a clear view, and fired the fatal shot. His name I have recently learned, from one to whom he related the circumstance, was Ryan. He sometimes went by the name of Wallace. After the retreat of the rebels he fled northward and took refuge in the

woods, on the shores of Lake Huron, where, apart from any human being, he dragged out a wretched existence during the whole of the winter, gnawing roots and herbs. In the spring, when he had been reduced to a skeleton, he fell in with a vessel going to the States, and thus made good his escape. He never returned to Canada. Mackenzie's calumniators have sometimes stated that he shot Col. Moodie, though it was notorious that he was a mile distant at the time the event took place.* But as this calumny

* Captain Stewart, R. N., who accompanied Col. Moodie, gives the following account of the death of his companion:—"About 4 P. M., a large body of men came along Yonge Street. The magistrates in the neighborhood met at Col. Moodie's house. Col. Moodie wrote to His Excellency the Lieutenant Governor, and Mr. Drew volunteered to take the letter to Toronto. The magistrates separated to do the best they could. Shortly afterwards word was brought that Mr. Drew was taken prisoner by the rebels. Upon this Col. Moodie determined to go to Toronto himself, against the prayers of his wife and family. I (Capt. Stewart) insisted on going with him, as did also Captain Bridgeford. On the road we were joined by Mr. Prime Lawrence, Mr. G. Read, and Mr. Brooks. Col. Moodie suggested that we should arrange ourselves in close order, three abreast—Col. Moodie, myself, and the stranger in front. Col. Moodie said, 'If they (the rebels) have a guard, we must gallop through them, whatever be the result.' On nearing Montgomery's Tavern, we observed a guard across the road, armed with muskets, who desired us to stop or they would fire. We kept on steady right through them. I looked for our companions, and found only Col. Moodie by my side, who remarked, 'We are alone.' He put his hand on my arm and said, 'Never mind, push forward, all is right yet!' About one hundred and fifty men were then in front of Montgomery's door, and a voice called as we were passing, 'Guards, fire!' We passed Montgomery's, and about one hundred yards from it was found a strong guard posted in close order. We reached them, when pikes and bayonets were presented to our horses' breasts. Col. Moodie said, 'Who are you—who dare stop me on the Queen's highway?' The reply was, 'You will know that in time.' Col. Moodie then fired his pistol, and, at the same moment, three guns were discharged at us. Col. Moodie said, 'I am shot! I am a dead man!' Here Brooks says he desired them to charge. We were then taken into Montgomery's Tavern. Shortly afterwards Mackenzie came into the room and asked for me."

has long since ceased to be repeated. I do not add the statements of several eye-witnesses, in my possession, in refutation. Col. Moodie died in about a couple of hours after he was shot.

It has been usual to speak of Col. Moodie's death as a murder, as if every death occurring in an insurrection could by any possibility come within this category. The circumstances connected with the death of Anderson were more discreditable than those connected with the death of Col. Moodie: because in the first place there was treachery; in the latter there was not.

Lount's men were a good deal dispirited by the death of Anderson. And they had no particular reasons for being in good humor. Lingfoot, by whom Montgomery's hotel was kept, had no provisions to offer them; and none could be procured that night. The handful of countrymen, exhausted by their long march, with no man of military experience to excite their confidence, had to sup on bad whiskey, and recline upon the floor, where many from sheer fatigue fell sound asleep. The rest were still uneasy as to the state of things in the city. The bells had been set a ringing; and they were uncertain as to the rumors about the arrival of steamboats full of Orangemen and other loyalists. They had expected to learn the exact state and condition of the city from their friends there. Mackenzie with three companions, as we have seen, had failed to reach the city, where the wished-for in-

Col. Moodie's foolhardiness is admitted even by Sir Francis Bond Head. "He determined," says the ex-Lieutenant Governor, in *The Emigrant*, "that—*coûte qui coûte*—he would ride through them and give me information that they were marching on Toronto."

telligence might have been obtained. Other messengers were sent, but none returned. They were made prisoners.

It is probable that Dr. Morrison attempted to take to them the information they so much needed; for it is pretty certain that he passed the toll-gate on his way out.* The sight of Captain Bridgeford in all probability compelled him to go back.

By midnight, the numbers were increased; and before morning, Mackenzie, with his natural impetuosity of disposition, again proposed to march on the city; but he was again overruled. And indeed, the chance of success was already much diminished; because the Government had now had several hours for preparation. To Mr. Mackenzie's proposal it was objected that nothing was known of the state of the garrison. The city bells had sounded an ominous alarm. The forces expected from the west had not

* The fact, if such it be, was known to but very few; and even Mackenzie was ignorant of it, for a long time after. He was firmly of opinion that Dr. Morrison never crossed his threshold to go towards the rebel camp. There is a curious circumstance connected with the Doctor's Yonge Street walk that night with Captain Bridgeford, and the latter made no secret of the fact. When relating the circumstance one day to an acquaintance, he was asked how it was possible for him to distinguish Dr. Morrison from Dr. Rolph, in the dark; the two men were so nearly of the same size. A few nights afterwards Captain Bridgeford and his friend were sipping tea together; when a female, in the course of the conversation that ensued, asked Captain Bridgeford the same question about his power of identifying a person who was so like another; another person present remarked, by preconcert, that this had only been stated as an impression, not a positive fact. In this way Captain Bridgeford was confused; and a confession was extracted from him that he only spoke of an impression. That female repeated what Captain Bridgeford had said that night on the trial of the doctor for high treason. He did not owe his acquittal entirely to this circumstance, however; for an *alibi* was set up and was regarded as being proved.

arrived ; and the Executive in the city, by whom the premature rising had been ordered, had sent no communication.

Next day, the relative force of the two parties was such that the patriots might, if properly armed, have obtained certain conquest. They had between seven and eight hundred men ; but many of them were unarmed. The rest had rifles, fowling-pieces, and pikes. Many of those who were unarmed, returned almost as soon as they discovered there were no weapons for their use. Provisions, including fresh and salt beef from a loyalist butcher, who lived up Yonge Street, about two miles above Montgomery's, were obtained for the men ; for Lingfoot, the keeper of the tavern, though a Tory, was not disinclined to turn an honest penny by serving the rebels.* Sir Francis B. Head claims to have had three hundred supporters in the morning and five hundred in the evening ;† but the statement has been disputed and is open to doubt. His fears may be judged by his holding parley with armed insurgents. On Tuesday he sent a flag of truce to the rebel camp, with a message asking what it was they wanted. There is no reason to doubt that this was a stratagem to gain time.‡ Mackenzie re-

* On the Thursday morning, the day of the retreat, Mackenzie paid Lingfoot's bill for victualling the whole of the men ; and as they could not make change, he gave him two dollars too much, remarking that it might go towards the next bill.

† *Narrative*, p. 331.

‡ *The Upper Canada Herald* argued that : " If an attack had been made on Tuesday, the city must have fallen. The flag of truce was sent on Tuesday forenoon, in order to gain time in that threatening emergency, and the fact that after having beaten to arms all night the Government could only muster

plied: "Independence and a convention to arrange details." He added that the Lieutenant Governor's message must be sent in writing, and feeling time to be precious he said it must be forthcoming in one hour.

Whom had Sir Francis Bond Head selected as the medium of communication between himself and the rebels? This question touches on one of the most painful subjects I have to deal with in this work. Mr. Robert Baldwin could hardly have been entirely ignorant of what every one who read the newspapers of the day must have been informed; but he had neither part nor lot in the revolt. But Mackenzie himself was not deeper in the rebellion than Dr. Rolph; and his acceptance of the post of mediator between the men he had encouraged into insurrection, and the Go-

a force of about three hundred out of ten thousand shows its deplorable weakness."

It is a melancholy fact, that even in his grave official dispatches, Sir F. Head could not narrate the occurrences of this insurrection with any thing like accuracy. In a dispatch to Lord Glenelg, dated Toronto, December 19th, he says: "On *Wednesday* morning we were sufficiently strong to have ventured an attack, but being sensible of the strength of our position, being also aware how much depended upon the contest in which we were engaged, and feeling the greatest possible reluctance at the idea of entering upon a civil war, I dispatched two gentlemen [one of whom he had shortly before advised the Colonial office not to treat with ordinary courtesy, as he was a 'republican' agent] to the rebel leaders, to tell them that, before any conflict should take place, I parentally called upon them, as their Governor, to avoid the effusion of human blood." The truth is, it was *Tuesday* and not *Wednesday*, when these gentlemen were despatched to the rebel camp; and the true reason was that the Lieutenant Governor feared an attack which he was not able to repel; for he admits, in the same dispatch, that on *Tuesday* morning he had only three hundred men. Fear, and not humanity was the real motive that induced him to treat with the rebels. That night, he confesses, in *The Emigrant*, "The sun set without our receiving succor or any intimation of its approach."

vernment against which they had been induced to rebel, is so extraordinary an act that it is almost impossible to account for it. The only possible explanation lies in the difficulty of his position which arose from his being asked to undertake this office.* Sheriff Jarvis, who had believed that an insurrection was approaching, long before any member of the Government could be induced to put the least faith in it, went to Mr. J. H. Price—so the latter says—and appealed to him, in the name of God, to give his assistance “to stop the proceedings of those men who are going to attack us.” Mr. Price replied, with much reason, that if he should go out it would be said that he went to join the rebels. And he suggested: “Why not go to Mr. Baldwin, Dr. Rolph, or Mr. Bidwell?” If Rolph had persisted in refusing he would have lain himself open to suspicion—as he did by a first refusal; and if he had been arrested, the worst might have happened. The Doctor’s returning prudence may have bid him go; and perhaps he thought he could perform this mission without serious injury to his friends in the field.† But the effect of his arrival

* Recorder Duggan, who was one of the two who first called upon Dr. Rolph to ask him to accept this mission, tells me that the Doctor, in the first instance, declined; adding something to the effect that the constitution was suspended and the powers of the Lieutenant Governor at an end. After they left the house, Mr. Duggan remarked to Sheriff Jarvis, by whom he was accompanied, that Dr. Rolph ought to be arrested; as it was evident from his manner that he was deep in the plot; and that before twenty-four hours it would be easy to find plenty of evidence against him. Mr. Jarvis said he should not like to arrest him; and the matter dropped.

† Samuel Lount, being examined before the Commission on Treason, Dec. 13, 1837, said: “When the flag of truce came up, Dr. Rolph addressed himself to me; there were two other persons with it besides Dr. Rolph and Mr. Baldwin. Dr. Rolph said he brought a message from his Excellency the Lieu-

with a flag of truce, about one o'clock, threw a damper on the zeal of the men. They fancied that when he

tenant Governor, to prevent the effusion of blood, or to that effect. At the same time, *he gave me a wink to walk on one side*, when he requested me not to heed the message, but to go on with our proceedings. What he meant was not to attend to the message. Mackenzie observed to me that it was a verbal message, and that it had better be submitted to writing. I took the reply to the Lieutenant Governor's message to be merely a put off. * * * I heard all that was said by Dr. Rolph to Mr. Mackenzie, which is as above related." Of this statement, Dr. Rolph in 1852, induced the flag bearer, Hugh Carmichael, to sign a denial, in these terms: "During the going out and staying on the ground, and returning to the city, as above stated, (all of which was promptly done,) Dr. Rolph, Mr. Baldwin, and myself, being all on horseback, kept in close phalanx, not a yard apart. Neither of the persons mentioned could have got off his horse, nor could he have winked to Mr. Lount and walked aside and communicated with him, nor have said anything irrelevant to the flag of truce, or against its good faith, as is untruly alleged, without my knowledge." There are yet three other witnesses besides Mackenzie; and as it is not my business to accuse or excuse any body, but to get at the truth, their testimony must be given. Mr. Baldwin made a statement relating to the second visit to the rebels, when the answer of the Lieutenant Governor was taken. Carmichael alleges that till the flag of truce was at an end, Dr. Rolph could not have done what was attributed to him by Lount, whose statement was corroborated, in one way or another, by three or four persons. Carmichael's statement, it will be seen, does not go to the extent of saying that, after the Lieutenant Governor's reply was delivered and the flag of truce declared at an end, Dr. Rolph did not tell Lount to take his men into the city. It leaves that question untouched. Mr. Baldwin's evidence, taken in connection with Carmichael's on this point, is very important. "On the return of the Doctor and myself, the second time," he says, "with the Lieutenant Governor's reply that he would not give any thing in writing, we found the insurgents at the first toll-gate, and turned aside to the west of Yonge Street, where we delivered this answer; after which Dr. Rolph requested me to wait for him. *I did wait some time, during which he was out of my sight and hearing.* I was then directed to ride westerly; this occupied the time while I was riding at a common walk from Yonge Street to the College Avenue, probably three-eighths of a mile. The direction to ride westerly, as I then supposed, was for the purpose of the flag being carried to the city by way of the College Avenue. Shortly after reaching the avenue, however, I was joined by Dr. Rolph, and we returned together by way of Yonge Street. I have no reason to know what communication took place between Dr. Rolph and the insurgents when he was out of my sight and hearing."—*Appendix, Assembly's Journals, 1837-8, p. 406*

appeared in the service of the Lieutenant Governor, the patriot cause must be desperate. Mackenzie did not venture to tell the real state of the case to more than five or six persons; for if it had been publicly announced, the fact might have reached town and occasioned the Doctor's arrest. The intelligence that Bidwell had been asked to accept the mission undertaken by Rolph created the false impression that they were both opposed to Mackenzie's movement. Lount, to whom he addressed himself, says Dr. Rolph secretly advised him to pay no attention to the message, but to proceed. Mackenzie told Lount this advice must be acted upon; and the order to proceed was given.

Lount was advised by Mackenzie to march his men into the city, without loss of time, and take up a position near Osgood Hall, on Queen Street. Mackenzie then rode westward to the larger body of insurgents, near Col. Baldwin's residence, and ordered an instant

Wm. Alves, who was present, says that on the second visit Dr. Rolph advised the rebels to go into the city. P. C. H. Brotherton, another of the insurgents, made oath to the same effect on the 12th December, before Vice Chancellor Jameson; stating that Dr. Rolph had told him, on the 8th, that "Mackenzie had acted unaccountably in not coming into the town; and that he expected him in half an hour after he returned with the flag." These statements are sufficiently conclusive as to the general fact; the only question that is not settled is whether it was on the first or second visit that Dr. Rolph told the insurgents to go into the city. Did he give this advice on the occasion of both visits? Mackenzie and Lount say the order to go into the city was given on the first visit. Against his positive evidence, Dr. Rolph produces his own denial and a statement from the flag bearer, who attempts to prove a negative from the alleged impossibility of the occurrence taking place. It must be explained that the statement signed by Carmichael was prepared in Quebec, where it was dated, and taken to Toronto for signature. Besides this, Carmichael has not been very consistent in his statements of the affair, having told a very different story at other times. The weight of the evidence is therefore entirely in favor of the correctness of Lount's statement.

march on the city. When they reached the upper end of the College Avenue, a second flag of truce arrived. The answer brought by Mr. Baldwin and Dr. Rolph was that the Lieutenant Governor refused to comply with the demands of the insurgents.

The truce being at an end, Dr. Rolph secretly advised the insurgents to wait till six o'clock, and then enter the city under cover of night. Reinforcements to the number of six hundred were expected in the city; and they were to be ready to join the forces from the country, as soon as the latter arrived. Accordingly at a quarter to six, the whole of the insurgent forces were at the toll bar, on Yonge Street, about a mile from the principal street of the city, on which the Government House, west of the line of Yonge Street, was situated. Mackenzie harangued the men; attempting to inspire them with courage by representing that there would be no difficulty in taking the city. The Government, he said, was so friendless that it had only been able to muster a hundred and fifty defenders, including the college boys; and that the Lieutenant Governor's family had been put on a steamer ready to take flight. The actual force claimed by Sir F. B. Head, on Tuesday night, was "about five hundred."

The patriot forces were a half armed mob, without discipline, headed by civilians, and having no confidence in themselves or their military leaders. Lount's men, who were armed with rifles, were in front; the pikemen came next, and in the rear was a number of useless men having no other weapons than sticks and cudgels. Captain Duggan, of the volunteer artillery,

another officer, and the sheriff's horse fell into the hands of the insurgents, when they were within about half a mile of the city. At this point they were fired upon by an advanced guard of loyalists, concealed behind a fence, and whose numbers—of which the insurgents could have no correct idea—have been variously stated at from fifteen to thirty; and shots were exchanged. After firing once, the loyalists, under Sheriff Jarvis, started back at full speed towards the city. The front rank of Lount's men, instead of stepping aside after firing to let those behind fire, fell down on their faces. Those in the rear, fancying that the front rank had been cut down by the muskets of the small force who had taken a random shot at them, being without arms, were panic stricken; and in a short time nearly the whole force was on the retreat. Many of the Lloydtown pikemen, raised the cry, "We shall all be killed," threw down their rude weapons, and fled in great precipitation. Mackenzie, who had been near the front, and in more danger from the rifles behind than the musketry of the loyalists, stepped to the side of the road and ordered the men to cease firing; being of opinion that one of the insurgents, who had been shot, fell from a rifle bullet of an unskillful comrade. The impetuous and disorderly flight had, in a short time, taken all but about a score above the toll gate. The mortification of Mackenzie may be imagined. Hoping to rally the men, he sent Alves back to explain to them that the danger was imaginary; and putting spurs to his horse he followed at a brisk pace immediately after, for the same purpose. When they came to a halt, he implored them to re-

turn. The steamers, he said, had been sent off to bring the Orangemen from the other districts; that whatever defenders the Government had in the city were in a state of desperate alarm; that the success which could now be easily achieved, might on the morrow be out of their reach; for the moment the timidity of the patriots became known, the Government would gain new adherents; and that if they did not return, the opportunity for the deliverance of the country would be lost. In this strain, he addressed successive groups. He coaxed and threatened.* He would go in front with any dozen who would accompany him. Relying upon the succor they would meet in the city, he offered to go on, if only forty men would go with him. Two or three volunteers presented themselves; but the general answer was that, though they would go in daylight, they would not advance in the dark.

The majority lost no time in returning to their homes. And although some two hundred additional

* Mr. P. H. Watson, writing from personal knowledge, gives the following account of this affair, in a letter dated Rochester, N. Y., November 12, 1839: "When Mr. Mackenzie found (after the retreat on Tuesday night) that most of the men were unwilling to enter the city that night, and perceived the disastrous consequences that must inevitably result from delay, to encourage them and show that he himself was not lacking in the quality so essential to success, namely, physical courage, and with a want of which he had just been charging them (in very provoking and unmeasured terms of censure), he proposed to 'go forthwith into the city if twenty men would volunteer to follow him;' but he could not get out of the whole force even such a small number to go with him.

"Mr. Stiles, one of Lount's friends from the North, was so provoked at Mackenzie for making use of such strong language of censure, when he was haranguing them after the retreat, and vainly endeavoring to make them return, that he elevated his gun to shoot him (Mackenzie), and was only prevented from doing so by the interference of four or five of Mr. Mackenzie's friends who were standing by and observed him."

forces arrived during the night, the whole number, on the Wednesday, had dwindled down to about five hundred and fifty. One cause of the panic, on Tuesday night, arose from the alarming stories told by some persons who had joined them from Toronto, of the preparations in the city; how the Tories, protected by feather-beds and mattresses, would fire from the windows of the houses and make terrible slaughter of the patriots.

Dr. Horne's house, close to Yonge Street, was the rendezvous of spies. Miss De Grassi had gone thence past the rebel camp and returned with the information she gathered from observation. Horne himself had berated the Lieutenant Governor for treating with armed rebels; and insisted that they were not in sufficient force to give any reasonable ground of alarm. His house was therefore burnt by the rebels, as those of Montgomery and Gibson were subsequently by the loyalists.* In Horne's house a search was made for

* Montgomery was not a party to the conspiracy for effecting a revolution. He had no foreknowledge of the outbreak. Only a few days before he had vacated his tavern, which had been rented to Lingfoot, with whom he was boarding for a month, till he could move to a private house in the neighborhood. If he had been a party to the conspiracy, he was not the man to have left his house, which was to be the rebel rendezvous, at that critical moment, in the hands of a Tory, and without any provisions for the men.

It was sworn to on Montgomery's trial that he told the unarmed men to go get arms; but a person of the name of Reed, then dying in the hospital, whose evidence he was refused a commission to obtain, was prepared to swear that the order in question was given by another person. Much stress was laid on the fact, at the trial, that Montgomery had, at the request of the butcher's boy, put down on a piece of paper a memorandum of the quantity of meat furnished to Lingfoot; the boy being apprehensive that the chalk figures would rub out. But this is all he had to do with the rebellion in Canada.

"In burning that [Horne's] house, we followed the distinct and explicit

papers that might show what information was being asked by the Government or sent to it; and the fire was caused by the upsetting of the stove. Nothing whatever was taken out of the house. It is not permissible to judge of acts done during civil war—recognized by the Government sending flags of truce to the insurgents—as if they were committed in a time of peace. What would be dastardly arson, in the latter case, might be justifiable in the former.

That night Dr. Rolph sent a messenger to Montgomery's to inquire of Mackenzie the cause of the retreat. The answer was sent back in writing, and next morning, despairing, it would seem, of all hope of success, he set out for the United States, as a place of refuge. He was soon to be followed by a large number of others.

Wednesday opened gloomily upon the prospects of the insurgents. Rolph left for the States. Morrison remained in his house. Mackenzie called the men together and explained to them the reason for the strong censures he had used on the retreat the previous evening. If they had taken his advice and been ready to follow his example, Toronto would have been theirs. The enemy had, in the meantime, been largely reinforced. They were well officered, well armed, and had command of the steamers for bringing up further reinforcements. If the patriots were to succeed it was essential that they should have confidence in themselves. They were greatly in want of arms; the four thousand muskets and bayonets they had in-

orders of Dr. Rolph, our Executive, which were to do so before we set off for the city."—*Account of the Rebellion*, by Mackenzie, New York, 1838.

tended to seize were now ready to be turned against them.

Mackenzie, Lount, Alves, and several others set off on horseback to collect arms to intercept the western mail, which would convey intelligence which it was desirable should not be communicated to the friends of the Government, and to make prisoners of persons who might be carrying information for the Government to the disadvantage of the insurgents. The mail-stage, coming into Dundas Street, the principal western entrance into Toronto, was captured, and with the driver, mails, and several prisoners was taken to the rebel camp. Among the letters were some addressed by the President of the Executive Council to persons in the country, and containing information that the Government expected soon to be able to make an attack at Montgomery's. This exploit, which has sometimes been described as a vulgar mail robbery, was a natural incident of insurrection. It was a means of depriving the friends of the Government, against whom the rebels were in arms, of information that might have a great effect on the result of the contest. Admit the right of insurrection, and the detention of the mails follows as a matter of course. Mackenzie, not knowing that Rolph had fled, wrote to him to send the patriots timely notice of the intended attack; but of course he got no answer. The messenger never returned. A man on horseback told them that the Government intended to make the attack on Thursday, and the information proved correct.

Thursday found division in the patriot camp. Gibson objected to Mackenzie's plans, though they were

sanctioned by Col. Van Egmond, who, true to the original understanding, had just arrived. Gibson's objections led to a council of war. Those who objected to Mr. Mackenzie's plan proposed no substitute. A new election of officers took place. This caused great delay. Gibson was unanimously elected Captain of one of the companies, but he left his post the moment the enemy appeared in sight.* In this respect he was neither better nor worse than about one half of the patriot force. The plan suggested by Van Egmond, and adopted by Mackenzie, was to try to prevent an attack on Montgomery's till night, in the hope that by that time large reinforcements might arrive. And there was some reason in this, as this was the day originally fixed for the general rising, and a notification of the alteration had been sent only to Lount's Division. One man had a force of five hundred and fifty ready to bring down, and many others who were on the way, when they found it was all up with the patriots, to save themselves, pretended they had come down to assist the Government to quell the insurrection. A militia colonel was to contribute a couple of fat oxen to the rebel cause. Another colonel had made the patriots a present of a gun, a sword, and some ammunition. Thousands whom prudence or fear kept aloof from the movement wished it success. Under these circumstances, the only hope of the patriots seemed to lay in preventing an attack till night. In order to accomplish this the city must be alarmed. Sixty men, forty of them armed with rifles, were selected to go to the Don Bridge, which formed the eastern connection with the city, and destroy it. By setting this bridge and

* William Alves's Letter to Mr. Rudd, N. Y.

the adjoining house on fire it was thought the loyalist force might be drawn off in that direction and their plan of attack broken up. The party sent eastward was to intercept the Montreal mails. The rest of the men who had arms "were to take the direction of the city, and be ready to remove either to the right or the left, or to retreat to a strong position as prudence might dictate."

A party was sent eastward, as agreed upon; the bridge and house were fired and partly burnt; and the mails intercepted. But the delay of two hours occasioned by the council of war proved fatal. Three steamers had, in the meantime, been bringing reinforcements to the alarmed Governor.

Toronto contained twelve thousand inhabitants, and if the Government had not been odious to the great majority of the people, it ought to have been able to raise force enough to beat back four hundred rebels; for to this number the patriot army had been reduced. But neither Toronto nor the neighboring country furnished the requisite force, and Sir Francis Bond Head had awaited in trembling anxiety the arrival of forces from other parts of the Province.* Having, at length,

* On Tuesday, Sir Francis Bond Head says, "The sun set without our receiving any succor or any intimation of its approach."—*Emigrant*. This statement is entirely at variance with his public dispatch of the 19th December, in which he says: "By the following morning (Tuesday) we mustered about three hundred men, and in the course of the day our number increased to about five hundred." The story in *The Emigrant* about his being in a helpless condition is the true one. He confesses to have been overjoyed at receiving relief, on Tuesday night, from a distance: "I was sitting," says he, "by a tallow candle light in the large hall, surrounded by my comrades, when we sud-

determined on an attack, Sir Francis Bond Head assembled the "overwhelming forces" at his command, under the direction of Col. Fitzgibbon, Adjutant General of the Militia. The main body was headed by Col. McNab, the right wing being commanded by Col. S. Jarvis, the left by Col. William Chisholm, assisted by Mr. Justice McLean. Major Cafræ, of the militia artillery, had charge of two guns.* The order to march was given about twelve o'clock, and at one the loyalist and the patriot forces were in sight of one another. When the sentinels at Montgomery's announced that the loyalists were within sight, with music and artillery, the patriots were still discussing their plans. Preparation was at once made to give them battle. Mackenzie, at first doubting the intelligence, rode forward till he became convinced by a full view of the enemy. When he returned, he asked the small band of patriots whether they were ready to encounter a force greatly superior in numbers to themselves, well armed, and provided with artillery. They replied in the affirmative, and he ordered the men into a piece of thin woods, on the west side of the road, where they

denly heard, in the direction of the lakeshore, a distant cheer. In a short time, two or three people, rushing in at the door, told us that 'a steamer full of the men of Gore had just arrived!' and almost at the same moment I had the pleasure of receiving this intelligence from their own leader. I have said that my mind had been *tranquilly awaiting the solution of the great problem*; but my philosophy was fictitious, for I certainly have never in my life felt more deeply affected than I was when, *seeing my most ardent hopes suddenly realized*, I offered my hand to Sir Allan McNab." Where were the Toronto people?

* Sir Francis Bond Head, dispatch to Lord Glenelg, December 19, 1837. In *The Emigrant* he says: "On the morning of the 7th, we had such an *overwhelming force* that there remained not the slightest reason for delay," in making the attack.



found a slight protection from the fire of the enemy they had to encounter. A portion of the men took a position in an open field, on the east side of the road.

“They have met—that small band, resolved to be free,
 As the fierce winds of Heaven that course over the sea—
 They have met, in bright hope, with no presage of fear,
 Though the bugle and drum of the foemen they hear;
 Some seize the dread rifle, some wield the tall pike,
 For God and their country—for Freedom they strike,
 No proud ensign of glory bespeaks their renown,
 Yet the scorn of defiance now darkens their frown.
 See the foemen advancing, and now sounds afar
 The clang and the shout of disastrous war.
 Yes! onward they come like the mountain’s wild flood,
 And the lion’s dark talons are dappled in blood.” *

The men in the Western copse had to sustain nearly the whole fire of the artillery from Toronto; “And never,” says Mr. Mackenzie, “did men fight more courageously. In the face of a heavy fire of grape and canister, with broadside following broadside of musketry in steady and rapid succession, they stood their ground firmly, and killed and wounded a large number of the enemy, but were at length compelled to retreat.”

O God of my country! they turn now to fly—
 Hark! the Eagle of Liberty screams in the sky!
 Where, where are the thousands that morn should have found
 In battle array on that dew-covered ground?
 The few that were there, now wildly have flown,
 Did fear stay the others?† * * *

* I quote this from *Mackenzie’s Gazette*, to give the spirit of the proceeding as far as it can be gathered from the expressions of the actors in it. A very wide poetic license is here taken; for assuredly the lion could be in no danger from the force brought into action by the insurgents.

† *Mackenzie’s Gazette*.

“They, the rebels,” says Sir Francis Bond Head, “were principally armed

Some are of the opinion that the fighting lasted an hour; but there are different opinions on this point. Mackenzie remained on the scene of action till the last moment; and till the mounted loyalists were just closing upon him. "So unwilling was Mackenzie to leave the field of battle," says an eye witness, "and so hot the chase after him, that he distanced the enemy's horsemen only thirty or forty yards, by his superior knowledge of the country, and reached Col. Lount and our friends on the retreat, just in time to save his neck."* Immediately £1,000 reward was offered for his apprehension.† This day was the turning point

with rifles, and for a short time, favored by buildings, stood their ground." There were no buildings except a few scattered on the side of the road, through one of which the loyalists drove some shots.

* William Alves' letter to the Editor of the *New York Reformer*: Mr. Mackenzie's conduct, on this occasion, has been subject to much misrepresentation—chiefly the result of political malice. It is therefore better that I should give the statement of persons who were present, and who were in a position to know the facts. In an unpublished letter, addressed to Mr. Mackenzie, and dated Watertown, N. Y., August 13, 1838, I find the following statement:—"We are very sorry to learn from your kind letter, that any person should charge you with cowardice, in any part of your proceedings in Canada; and we are all ready to bear evidence of your courage and patriotism on the occasion of the first outbreak in that country." Signed, Edward Kennedy, John Stewart, jr., Thomas Tracy, Thomas Shepard, William Stockdale, Walter Chase, Michael Shepard, Gilbert T. Morden.

† He always kept a copy of this proclamation framed and hung up in a conspicuous part of his house:—

"PROCLAMATION.

"By His Excellency, Sir Francis Bond Head, Baronet, Lieutenant Governor of Upper Canada, &c., &c. To the Queen's faithful subjects in Upper Canada,

"In a time of profound peace, while every one was quietly following his occupation, feeling secure under the protection of our laws, a band of Rebels, instigated by a few malignant and disloyal men, has had the wickedness and audacity to assemble with arms, and to attack and murder the Queen's subjects on

in his career. It witnessed the almost total wreck of long cherished hopes. The hope of peaceable reform had for some time been extinguished; that of successful revolution had been next indulged. Instead of finding himself the hero of a revolution, he only preserved his life by going into exile. Foiled in an enterprise in which he risked all, he lost all. Ruined in pro-

the highway, to burn and destroy their property, to rob the public mails, and to threaten to plunder the banks, and to fire the City of Toronto.

“Brave and loyal people of Upper Canada, we have long been suffering from the acts and endeavors of concealed traitors, but this is the first time that Rebellion has dared to show itself openly in the land, in the absence of invasion by any foreign enemy.

“Let every man do his duty now, and it will be the last time that we or our children shall see our lives or properties endangered, or the authority of our Gracious Queen insulted by such treacherous and ungrateful men. Militia men of Upper Canada, no country has ever shown a finer example of loyalty and spirit than you have given upon this sudden call of duty. Young and old of all ranks are flocking to the standard of their country. What has taken place will enable our Queen to know Her friends from Her enemies. A public enemy is never so dangerous as a concealed traitor. And now, my friends, let us complete well what is begun. Let us not return to our rest till treason and traitors are revealed to the light of day, and rendered harmless throughout the land.

“Be vigilant, patient, and active; leave punishment to the laws. Our first object is, to arrest and secure all those who have been guilty of rebellion, murder, and robbery. And to aid us in this, a reward is hereby offered of one thousand pounds, to any one who will apprehend, and deliver up to justice William Lyon Mackenzie; and five hundred pounds to any one who will apprehend and deliver up to justice David Gibson, or Samuel Lount, or Jesse Lloyd, or Silas Fletcher; and the same reward and a free pardon will be given to any of their accomplices who will render this public service, except he or they shall have committed, in his own person, the crime of murder or arson. And all, but the leaders above named, who have been seduced to join in this unnatural rebellion, are hereby called to return to their duty to their Sovereign, to obey the laws, and to live henceforward as good and faithful subjects; and they will find the Government of their Queen as indulgent as it is just.

“God save the Queen.

“THURSDAY, 4 o'clock, P. M., December 7.

“The party of rebels, under their chief leaders, is wholly dispersed, and

perty,* blighted in prospect, exiled and outlawed, with a price upon his head, how complete was the wreck of his fortune and his hopes!

The Lieutenant Governor thought it necessary, so he has told the world, to "mark and record, by some stern act of vengeance, the important victory" that had been achieved over the insurgent forces.† In the presence of the militia, he determined to burn Montgomery's hotel‡ and Gibson's dwelling house. In-

flying before the loyal militia. The only thing that remains to be done is, to find them and arrest them."

* His ruin resulted from the failure of the insurrection. At the time of the outbreak, his printing establishment was the largest and the best in Upper Canada; and, although not rich, he was in good circumstances. In the previous year his account for public printing was \$4,000. His book store contained 20,000 volumes, and he had an extensive bindery. He had town lots in Dundas, a farm lot in Garafraxa, and a claim to a proportion of the immense Randall estate. A large amount was owing to him; and all he owed was only about £750. Such of his moveable property as was not destroyed by violence or stolen was never satisfactorily accounted for; though part of it went to pay some of his creditors, who got judgment against him under the fiction of an absconding debtor.

† *Emigrant*.

‡ Sir F. Head has given the following account of this burning: "Volume after volume of deep, black smoke, rolling and rising from the windows of Montgomery's tavern now attracted my attention. This great and lofty building, entirely constructed of timber and planks, was soon a mass of flames, whose long red tongues sometimes darted horizontally, as if revengefully to consume those who had created them, and then flared high above the roof. As we sat on our horses the heat was intense; and while the conflagration was the subject of joy and triumph to the gallant spirits that immediately surrounded it, it was a lurid telegraph which intimated to many an anxious and aching heart at Toronto the joyful intelligence that the yeomen and farmers of Upper Canada had triumphed over their perfidious enemy, 'responsible government.'"—*Emigrant*. For this sneer at responsible government, there might have been some excuse at a time when opinion was divided as to the merits of the system, as applied to a colony; but when *The Emigrant* was written, responsible government had tranquilized Canada and made it prosperous and happy.

surgent prisoners alleged that Sir F. Head was urged to include the residence of Mr. J. H. Price in the programme of destruction, but that he refused to act upon the suggestion. But if he executed stern vengeance, he showed that he was not incapable of performing an act of clemency. He released several of the prisoners almost as soon as captured, bidding them go to their homes and return to their duties of allegiance. In some cases, however, the men, though released, were arrested again almost as soon as they arrived home, without having been guilty of any new act that would have warranted such a procedure.* After the defeat of the insurgents, and their retreat above Montgomery's, it would be difficult to justify these burnings on the plea of necessity; and indeed, the Lieutenant Governor, by whom they were ordered, does not appear to have felt the least embarrassment in describing them as an act of vengeance.

* The British Government afterwards pardoned some of these prisoners on the ground that the Proclamation contained a full amnesty of their offences.

CHAPTER V.

The Canadian Militia in 1837—Mackenzie's Account of his Escape from Montgomery's to the American Shore, with Notes by the Author.

THE militia who went to the succor of the Government was not generally a more warlike body of men than the insurgents under Lount. They were drawn from the same class—the agriculturists—and were similarly armed and equipped. A description of a party—as given to me by an eye-witness—who came down from the North, would answer, with a very slight variation, for the militia of any other part of the Province. A number of persons collected at Bradford, on the Monday or Tuesday, not one third of whom had arms of any kind; and many of those who were armed had nothing better than pitchforks, rusty swords, dilapidated guns, and newly manufactured pikes, with an occasional bayonet on the end of a pole. These persons, without the least authority of law, set about a disarming process; depriving every one who refused to join them, or whom they chose to suspect of disloyalty, of his arms. Powder was taken from stores, wherever found, without the least ceremony, and without payment. On Thursday, a final march from Bradford for Toronto was commenced; the number of men being nearly five hundred, including

one hundred and fifty Indians, with painted faces and savage looks. At Holland Landing some pikes, which probably belonged to Lount, were secured. In their triumphant march, these grotesque-looking militiamen made a prisoner of every man who did not give such an account of himself as they deemed satisfactory. Each prisoner, as he was taken, was tied to a rope; and when Toronto was reached a string of fifty prisoners all fastened together were marched in. Fearing an ambush, these recruits did not venture to march through the Oak Ridges, in the night; and a smoke being seen led to the conclusion that Toronto was in flames. McCleod's tavern, beyond the Ridges, was taken possession of, as well as several other houses in the vicinity. In a neighboring store, all kinds of provisions and clothing that could be obtained were unceremoniously seized. At the tavern there was a regular scramble for food; and cake-baking and bacon-frying were going on upon a wholesale scale. Next morning, several who had no arms, and others who were frightened, returned to their homes. Each man wore a pink ribbon on his arm to distinguish him from the rebels. Many joined from compulsion; and a larger number, including some who had been at Montgomery's, suddenly turned loyalists when they found the fortunes of the insurrection had become desperate. When they marched into Toronto, they were about as motley a collection as it would be possible to conceive.

Such was the Canadian militia in 1837, at a time when Sir F. B. Head had sent all the regular troops out of the Province.

We left Mackenzie at the close of the defeat at Montgomery's; and he must now be allowed to tell the story of his escape in his own words.

"It evidently appearing that success for the insurgents was, at that time, impossible, the Colonel and many others gave way, and crossed the field to the parallel line of road west of Yonge Street," says Mackenzie. "I endeavored to get my cloak, which I had left at the hotel, through which Capt. Fitzgibbon's men were just then sending their six-pound shots with good effect, but too late. Strange to tell, that cloak was sent to me years afterwards, while in prison,* but by whom I know not.

"Perceiving that we were not yet pursued, I passed on to Yonge Street, beyond Lawyer Price's, and the first farmer I met, being a friend, readily gave me his horse—a trusty, sure-footed creature, which that day did me good service. Before I had ridden a mile the smoke rose in clouds behind me, and the flames of the extensive hotel and outbuildings arrested my attention, as also another cloud of smoke which I then supposed to be from the Don Bridge, in the city, which we had sent a party to destroy or take possession of. Colonel Fletcher, now of Chautauque county, N. B., handed me an overcoat, and told me he would make for the States, but not by the head of Lake Ontario.

"Although it was known that we had been worsted, no one interrupted us, save in friendship. Dr. —, from above Newmarket, informed me that sixty armed friends were on their way, close by. I assured him it was too late to retrieve our loss in that way, and

* For a breach of the neutrality laws of the United States.

bade him to tell them to scatter. Some, however, went on, as volunteers for Sir Francis Bond Head; the rest returned to their homes.

“At the Golden Line, ten miles above the city, I overtook Col. Anthony Van Egmond, a Dutch officer, of many years’ experience under Napoleon. He agreed with me that we should at once make for the Niagara frontier, but was taken, almost immediately after, by a party who had set out from Governor Head’s camp, to gain the rewards then offered there.

“The Colonel was a man of large property, old, and known to be opposed to Head’s party. Though not found in arms, he was placed in a cell, so cold that they had very soon to take him to the hospital—on his way to the grave.

“Finding myself closely pursued and repeatedly fired at, I left the high road with one friend (Mr. J. R.) and made for Shepard’s Mills. The fleetest horsemen of the official party were so close upon us that I had only time to jump off my horse, and ask the miller (himself a Tory) whether a large body of men, then on the heights, were friends or foes, before our pursuers were climbing up the steep ascent almost beside me.

“When I overtook Col. Lount, he had, I think, about ninety men with him, who were partly armed. We took some refreshment at a friendly farmer’s near by. Lount was for dispersing—I proposed that we should keep in a body, and make for the United States, via the head of Lake Ontario, as our opponents had the steamers; but only sixteen persons went with me. I had no other arms than a single-barrel pistol, taken from

Capt. Duggan during our Tuesday's scuffle, and we were all on foot. Some of my companions had no weapons at all.

"We made for Humber Bridge, through Vaughan, but found it strongly guarded; went up the river a long way, got some supper at the house of a farmer, crossed the stream on a foot bridge, and by two next morning reached the hospitable mansion of a worthy settler on Dundas Street, utterly exhausted with cold and fatigue.*

"Blankets were hung over the windows to avoid suspicion, food and beds prepared, and while the Tories were carefully searching for us, we were sleeping soundly. Next morning (Friday) those who had arms buried them, and after sending to inquire whether a friend a mile below had been dangerously wounded, we agreed to separate and make for the frontier, two and two together. A lad in his nineteenth or twentieth year accompanied me,† and such was my confidence in the honesty and friendship of the country folks, Protestant and Catholic, European and American, that I went undisguised and on foot, my only weapon at the time being Duggan's pistol, and it not loaded. Address was now wanted more than brute force.

"We followed the Concession Parallel, and next to the great Western Road saw and talked with numbers of people, but with none who wanted the Govern-

* There can no longer be any reason for withholding the fact, not here mentioned by Mr. Mackenzie, that the house of Mr. Absalom Wilcox, who had several sons engaged in the revolt, one of whom was afterwards on Navy Island.

† This was Allan Wilcox. I think he must have been a little older than here stated, as he was then married.

ment reward. About three in the afternoon, we reached Comfort's Mills, near Streetsville; we were there told that Col. Chisholm and three hundred of the hottest Orangemen, and other most violent partisans, were divided into parties searching for us. Even from some of these there was no real danger. They were at heart friendly.

"Mr. Comfort was an American by birth, but a resident of Canada. I asked his wife for some bread and cheese, while a young Irishman in his employ was harnessing up his wagon for our use. She insisted on our staying to dinner, which we did. Mr. Comfort knew nothing of the intended revolt, and had taken no part in it, but he assured me that no fear of consequences should prevent him from being a friend in the hour of danger.* After conversing with a number of people there, not one of whom said an unkind word to us, my companion and I got into the wagon and the young Emeralder drove us down the Streetsville road, through the Credit Village (Springfield) in broad daylight, and along Dundas Street, bills being then duly posted for my apprehension, and I not yet out of the county which I had been seven times chosen by its freeholders to represent.† Yet, though known

* Comfort took out an old pocket-book, well filled with bank bills, laid it on the table, and told Mackenzie to take a supply, to which the latter replied: "I have plenty of that." This arose from his independent manner, for I doubt if he had much money on his person at the time.

† Comfort rode after them, at the distance of about half a mile, saying to Mrs. Comfort as he left his house, "Good-bye, wife, perhaps I may never see you again;" words which proved prophetic of her sad fate. Just after Mr. Mackenzie left Comfort, a man, named Falconer, who was distributing the proclamation offering a reward for the rebel leaders, went in. He mentioned that he knew Mackenzie.

to everybody, we proceeded a long way west before danger approached. At length, however, we were hotly pursued by a party of mounted troops; our driver became alarmed, and with reason, and I took the reins and pushed onward at full speed over a rough, hard-frozen road, without snow. Our pursuers, nevertheless, gained on us, and when near the Sixteen-Mile Creek we ascertained that my countryman, Col. Chalmers, had a party guarding the bridge. The creek swells up at times into a rapid river; it was now swollen by the November rains. What was to be done? Young W—— and I jumped from the wagon, made toward the forest, asked a laborer the road to Esquising to put our pursuers off our track, and were soon in the thickest of the patch of woods near the deep ravine, in which flows the creek named and numbered arithmetically as the Sixteen.*

“The men in chase came up with our driver almost immediately after we left, took him prisoner, seized his team, gave the alarm to all the Tories and Orangemen in that part of Trafalgar, and in an hour or thereabouts, we were annoyed by the reports of rifles and the barking of dogs near by the place where we were hidden.

“Some who saw me at Comfort’s Mills went and told the armed Tories of Streetsville, who instantly went to the worthy man’s house, insulted and threat-

* When Comfort came up to about where Mackenzie left the wagon, he saw several men armed with guns, keeping sentry; and on his asking what it meant, they told him that Mackenzie and another person, who came that far in a wagon, had taken to the woods. The truth is, Mackenzie could easily have been taken, but he owed his freedom from capture to a friendly loyalist, whose name I do not feel at liberty to mention.

ened his intrepid and true-hearted wife,* proposed to make a bonfire of his premises, handcuffed and chained him, threw him into a wagon, and dragged him off to Toronto jail, and, as they said, to the gallows. He lay long in prison untried, and was only released to find his excellent wife (who had been in the family way) in her grave, the victim of that system of persecution and terror which often classes men in America, as in Europe, not according to their personal deserts, but

* Comfort had returned to within about two miles of his own house, when he was taken prisoner. A loyalist neighbor interested himself in Comfort's favor, and wrote to Hagerman in his behalf. The reply was unfavorable. Comfort's loyalist friend then asked, "Have you and Hagerman ever quarrelled?" Their reply was that there had been some difference between them years before. "Then," rejoined the friendly loyalist, "he remembers it against you; his answer is very unfavorable." Comfort's wagon and horses were taken and used by the captors all winter! He was first arrested by Col. Chisholm and Chalmers, and they appear to have sent him to Toronto without a guard, when he was stopped at the Credit Bridge by James McGrath, and again arrested. He showed Col. Chisholm's pass. McGrath swore Chisholm was the biggest rebel in the Province. Col. Star Jarvis examined the pass, and said they ought to respect it. But McGrath insisted on sending Comfort to Toronto under a guard, and prevailed. Comfort was sent to jail, where he remained three months.

While he was in prison, a party, under Harry Cole, with guns and bayonets rode briskly up to Comfort's house. The children were frightened. Mrs. Comfort hearing them scream, looked out, and when she saw the threatening demonstration she fainted and was carried to bed. Her fright arose from a notion that the armed men were killing the children. She had a succession of fits. When she came to herself, one of the men asked if she had any concealed arms, and desired her to give information for the conviction of her husband, assuring her, at the same time, that he was sure to be hanged. One brute cocked a pistol, and placing it at her breast, threatened to shoot her through, if she did not tell all she knew. This threw her into another fit. They then threw pails of cold water on her in bed. This revolting treatment led to premature confinement, resulting in her death, on the 16th of January, 1838. Great efforts were made to obtain leave for Comfort to attend the funeral, on the 21st, but Hagerman was immovable, and the poor man's prediction that he might never see his wife again was realized.

with reference to their politics, birth-place, faction, or religious profession.

“Our Irish driver had a kind heart. When I was exhibited by authority in the prison at Rochester, he came across to see me. He had been in the service of Judge Jones and others. I was ill of intermittent fever at the time, owing to close confinement and the swamp around me, and could only express the gratitude I felt for past acts of good will.

“Trafalgar was a hot-bed of Orangeism, and as I had always set my face against it, and British nativeism, I could hope for no friendship or favor, if here apprehended. There was but one chance for escape, however, surrounded as we were—for the young man had refused to leave me—and that was to stem the stream, and cross the swollen creek. We accordingly stripped ourselves naked, and with the surface ice beating against us, and holding our garments over our heads, in a bitter cold December night, buffeted the current, and were soon up to our necks. I hit my foot against a stone, let fall some of my clothes, (which my companion caught,) and cried aloud with pain. The cold in that stream caused me the most cruel and intense sensation of pain I ever endured, but we got through, though with a better chance for drowning, and the frozen sand on the bank seemed to warm our feet when we once more trod on it.

“In an hour and a half we were under the hospitable roof of one of the innumerable agricultural friends I could then count in the country. I had a supply of dry flannels, and food, and an hour's rest, and have often wished since, (not to embark again on the tem-

pestuous ocean of politics,) but that I might have an opportunity to express my grateful feelings to those who proved my faithful friends in the hour when most required.

“I had risked much for Canadians, and served them long, and as faithfully as I could—and now, when a fugitive, I found them ready to risk life and property to aid me—far more ready to risk the dungeon, by harboring me, than to accept Sir Francis Head’s thousand pounds. The sons and daughters of the Nelson farmer kept a silent watch outside, in the cold, while I and my companions slept.

“We crossed Dundas Street about 11 o’clock, P. M., and the Twelve-Mile Creek, I think, on a fallen tree, about midnight. By four, on Saturday morning, we had reached Wellington Square, by the middle road. The farmer’s dogs began to bark loudly, the heavy tramp of a party of horsemen was heard behind us—we retired a little way into the woods—saw that the men were armed—entered the road again—and half an hour before twilight reached the door of an upright Magistrate, which an English boy at once opened to us. I sent up my name, was requested to walk up stairs, (in the dark,) and told that the house, barns, and every part of the premises, had been twice searched for me that morning, and that McNab’s men, from Hamilton, were scouring the country in all directions, in hope of taking me. I asked if I had the least chance to pass downward by the way of Burlington Beach, but was answered that both roads were guarded, and that Dr. Rolph was, by that time, safe in Lewiston.

“Believing it safest, we went behind our friend’s house to a thicket—he dressed himself, followed us, gave a shrill whistle, which was answered, and all three of us were greatly puzzled as to what safe course I could possibly take. As my companion was not known, and felt the chill of the water and fatigue, he was strongly advised to seek shelter in a certain house not far off. He did so, reached the frontier safely, and continued for four months thereafter very sick.

“At dawn of day it began to snow, and leaving foot-marks behind me, I concluded to go to a farm near by. Its owner thought I would be quite safe in his barn, but I thought not. A peas-rick, which the pigs had undermined all round, stood on a high knoll, and I chose it for a hiding-place. For ten or twelve days I had slept, when I could get any sleep, in my clothes, and my limbs had swelled so that I had to leave my boots and wear a pair of slippers; my feet were wet, I was very weary, and the cold and drift annoyed me much. Breakfast I had had none, and in due time, Colonel McDonell, the High Sheriff, and his posse, stood before me. House, barns, cellars, and garret were searched, and I the while quietly looking on. The Colonel was afterwards second in command to Sir Allan McNab, opposite Navy Island; and when I lived in William Street, some years ago,* he called on me, and we had a hearty laugh over his ineffectual exertions to catch a rebel in 1837.

“When the coast seemed clear, my terrified host, a wealthy Canadian,† came up the hill as if to feed his

* In 1844.

† Mr. G***.

pigs, brought me two bottles of hot water for my feet, a bottle of tea, and several slices of bread and butter; told me that the neighborhood was literally harassed with bodies of armed men in search of me, and advised that I should leave that place at dark, but where to go he could not tell me. He knew, however, my intimate acquaintance with the country for many miles round. Years thereafter he visited me when in Monroe County Prison, and much he wondered to see me there. I too, in those days, had taken but a surface view of the conduct of a cold-blooded reptile band, who pretended to love liberty, that they might thereby more effectually hoodwink and betray 'a working majority' of their trusting countrymen.

"After I had left his premises he was arrested; but had powerful friends, gave bail, and the matter ended there.

"When night had set in, I knocked at the next farmer's door—a small boy who lived, I think, with one of the brothers Chisholm, (strong Government men, collectors, colonels, &c.,) or who was their nephew or other relative, came to me. I sent in a private message by him, but the house had been searched so often for me that the indwellers dreaded consequences, and would not see me. The boy, however, volunteered to go with me, and we proceeded by a by-path to Mr. King's, who lived on the next farm to Col. John Chisholm's, which was then head-quarters for our Tory militia. The boy kept my secret; I had supper with Mr. King's family, rested for an hour, and then walked with him toward my early residence, Dundas village, at the head of Lake Ontario. We saw a small

party of armed men on the road, near the mills of an Englishman, but they did not perceive us. Mr. King is now dead, but the kind attention I met with under his hospitable roof I shall not forget. Why should such a people as I tried and proved in those days ever know hardship or suffer from foreign or domestic misrule?

"We went to the dwelling of an old friend, to whom I stated that I thought I would now make a more speedy, yet equally sure, progress on horseback. He risked at once, and that too most willingly, not only his horse, but also the knowledge it might convey that he had aided me. Mr. King returned home and I entered the village alone in the night, and was hailed by some person who speedily passed on. I wanted to take a friend with me, but durst not go to wake him up; there was a guard on duty at the hotel, and I had to cross the creek close by a house I had built in the public square; I then made for the mountain country above Hamilton, called at Lewis Horning's, but found a stranger there, passed on to the dwellings of some old Dutch friends, who told me that all the passes were guarded—Terryberry's, Albion Mills, every place.

"I got a fresh horse near Ancaster, from an old comrade*—a noble animal who did me excellent service—pursued my journey in a concession parallel to the Mountain Road above Hamilton, till I came near to a house well lighted up, and where a guard was

* Mr. Jacob Rymal. Mr. Mackenzie awoke him about midnight, explained his situation, and asked if he could let him have a horse. "The best I have," was the unhesitating reply.

evidently posted to question wayfarers—and, as it then seemed the safest course, pulled down the worm fence, and tried to find my way through the Binbrook and Glanford woods, a hard task in daylight, but far worse in the dark.

“For several weary hours did I toil through the primeval forest, leading my horse, and unable to get out or find a path. The barking of a dog brought me, when near daylight, to a solitary cottage, and its inhabitant, a negro, pointed out to me the Twenty-Mile Creek, where it was fordable. Before I had ridden a mile, I came to a small hamlet, which I had not known before—entered a house, and, to my surprise, was instantly called by name, which, for once, I really hesitated to own, not at all liking the manner of him who had addressed me, though I now know that all was well intended.

“Quite carelessly, to appearance, I remounted my horse and rode off very leisurely—but turned the first angle and then galloped on, turned again, and galloped still faster. At some ten miles distance, perhaps, a farm newly cleared, and situated in a by-place, seemed a safe haven. I entered the house, called for breakfast, and found in the owner a stout Hibernian farmer, an Orangeman from the North of Ireland, with a wife and five fine curly-headed children. The beam of a balance, marked ‘Charles Waters, Maker,’ had been hung up in a conspicuous place, and I soon ascertained that said Charles resided in Montreal, and that my entertainer was his brother.

“I took breakfast very much at my leisure, saw my horse watered, and fed with oats in the sheaf, and then

asked Mr. Waters to be so kind as to put me in the way to the Mountain Road, opposite Stony Creek, which he agreed to do, but evidently with the utmost reluctance.

"After we had travelled about a quarter of a mile in the woods, he turned round at a right angle, and said that that was the way. 'Not to the road,' said I. 'No, but to Mr. McIntyre, the magistrate,' said he. Here we came to a full stop. He was stout and burly; I, small and slight made.

"I soon found that he had not even dreamed of me as a rebel; his leading idea was, that I had a habit of borrowing other men's horses without their express leave—in other words, that I was a horse-thief. Horses had been stolen; and he only did his duty by carrying a doubtful case before the nearest justice, whom I inferred to be one of McNab's cronies, as he was a new man of whom I had never before heard, though a freeholder of that district, and long and intimately acquainted with its affairs.

"This was a real puzzle. Should I tell Waters who I was, it was ten to one but he would seize me for the heavy reward, or out of mere party zeal or prejudice. If I went before his neighbor, the new made justice, he would doubtless know and detain me on a charge of high treason. I asked Mr. Waters to explain.

"He said that I had come, in great haste, to his house, on a December Sunday morning, though it was on no public road, with my clothes torn, my face badly scratched, and my horse all in a foam; that I had refused to say who I was, or where I came from, had paid him a dollar for a very humble breakfast, been

in no haste to leave, and was riding one of the finest horses in Canada, making at the same time for the frontier by the most unfrequented paths, and that many horses had been recently borrowed. My manner, he admitted, did not indicate anything wrong, but why did I studiously conceal my name and business? And if all was right with me, what had I to fear from a visit to the house of the nearest magistrate?

“On the Tuesday night, in the suburbs of Toronto, when a needless panic had seized both parties, Sheriff Jarvis left his horse in his haste—it was one of the best in Canada, a beautiful animal—and I rode him till Thursday, wearing the cap of J. Latimer, one of my young men, my hat being knocked off in a skirmish in which one or two of our men were shot. This bonnet-rouge, my torn homespun, sorry slippers, weary gait, and unshaven beard, were assuredly not much in keeping with the charger I was riding, and I had unfortunately given no reply whatever to several of his and his good wife’s home questions.

“My chance to be tried and condemned in the hall where I had often sat in judgment upon others, and taken a share in the shapeless drudgery of Colonial legislation,* was now seemingly very good—but I did not quite despair.

“To escape from Waters in that dense forest was entirely hopeless—to blow out his brains, and he acting quite conscientiously, with his five pretty children at home awaiting his early return, I could have done it with ease, as far as opportunity went, for

* The Legislative Assembly had held its sittings in the Court House.

he evidently had no suspicion of that, and my pistol was now loaded and sure fire. Captain Powell, when my prisoner ten days before, and in no personal danger, had shot the brave Captain Anderson dead, and thus left eight children fatherless. No matter ; I could not do it, come what might ; so I held a parley with my detainer, talked to him about religion, the civil broils, Mackenzie, party spirit, and Dr. Strachan ; and found to my great surprise and real delight that, though averse to the object of the revolt he spoke of myself in terms of good-will. Mr. McCabe, his next neighbor, had lived near me in 1823, at Queens-town, and had spoken so well of myself and family to him as to have interested him, though he had not met me before.

“ ‘I am an old magistrate,’ said I, ‘but at present in a situation of some difficulty. If I can satisfy you as to who I am, and why I am here, would you desire to gain the price of any man’s blood ?’ He seemed to shudder at the very idea of such a thing. I then administered an oath to him, (and with more solemnity than I had ever done the like when acting judicially,) he holding up his right hand as we Irish and Scottish Presbyterians usually do.

“ When he had ascertained my name, which I showed him on my watch and seals, in my pocket-book and on my linen, he expressed real sorrow on account of the dangerous situation in which I stood, pledged himself to keep silence for twenty-four hours, as I requested ; directed me how to get into the main road, and feelingly urged me to accept his personal guidance to the frontier. Farmer Waters had none of the

Judas blood in his veins. His innate sense of right led him at once to the just conclusion to do to his fellow-creature, as he would be done by. I perceived, from his remarks, that he had previously associated with my name the idea of a much larger and stouter man than I am.

“When I was fairly out of danger he told the whole story to his neighbors—it was repeated and spread all over—he was soon seized and taken to Hamilton, and there thrown into prison, but afterward released.

“When I was passing the houses of two men, Kerr and Sidey, who were getting ready, I supposed, to go to church, I asked some question as to the road, again crossed the Twenty-Mile Creek, and at length re-entered the mountain path, a little below where a military guard was then stationed. While in sight of this guard, I moved on very slowly, as if going to meeting, but afterward used the rowels to some advantage in the way of propellers. Some persons whom I passed on the road I knew, and some I didn't. Many whom I met evidently knew me, and well was it for me that day that I had a good name. I could have been arrested fifty times before I reached Smithville, had the Governor's person and proclamation been generally respected. As it was, however, another unseen danger lurked close behind me.

“A very popular Methodist preacher, once a zealous friend, had taken a course of which I greatly disapproved, and I had blamed him.* Unkind words passed between us, through the press, he, like myself, having the control of a journal widely circulated. No

* Egerton Ryerson.

doubt many of his readers were affected thereby ; and to this, and not the love of lucre, I have ascribed the conduct of the two men whom I had interrogated as to the road. I have since learned that they warned an armed party, who immediately took horses and rode after me. I perceived them when a third of a mile off, after a part of Mr. Eastman's congregation had passed me, on their way home.

“I thought it safer to endeavor to put my huntsmen off the track, and on a false scent, than to keep on ahead of them ; so I turned short toward St. Catharines, when I got to Smithville, and seemed to have taken that road down hill at full speed. Instead of doing so, however, I turned a corner, put up my horse very quickly in the stable of a friendly Canadian, whose sire was a United Empire Loyalist, entered his hospitable abode, he being still at church, beheld my pursuers interrogate a woman who had seen me pass, and then ride furiously onward by the St. Catharines Road, and then went quietly to bed, and rested for some four hours, had a comfortable supper with the family, and what clothes I required. A trusty companion was also ready to mount his horse and accompany me the last forty miles, to Buffalo, should that attempt prove practicable.

“Samuel Chandler, a wagon-maker, resides in the Western States, but I do not now know where. He was forty-eight years of age when he volunteered, without fee or reward, to see me safe to Buffalo—had a wife and eleven children, and resided in Chippewa. He is a native of Enfield, Conn., had had no connection whatever with the civil broils in the Canadas ; but

when told, in strict confidence, of the risk I ran, he preferred to hazard transportation, or loss of life, by aiding my escape, to accepting the freehold of eight thousand acres of land which would have been the reward of my betrayers.

“Other circumstances afterward excited his feelings, and he joined the party taken at the Short Hills, of whom Linus W. Miller, John Grant, John Vernon, himself and others, were tried before Judge Jones, at Niagara, sentenced to suffer death, but banished to Van Dieman’s Land. Chandler soon escaped in a Yankee whaler, sailed round the world, and when he reached New York, on his return to his family, (after I had got out of Rochester prison,) I was in no condition to aid him, which I very unavailingly regretted. A more trusty, faithful, brotherly-minded man I have never met with; may Heaven reward Lord Durham’s family for saving his life!

“It was about 8 o’clock on Sunday night, when Chandler and I left Smithville. We turned our horses’ heads toward Buffalo, crossed the Twenty, ventured to take a comfortable supper with a friend, whose house was on our way, crossed the Welland Canal and the Chippewa River, steering clear of the officials in arms in these parts, and got safe into Crowland before daylight. We soon awoke Mr. C —, * left our horses in his pasture, and he immediately accompanied us, on our way to the Niagara River on foot.

“On inquiry, he found that all the boats on the

* I do not fill up the name of Mr. C * * * * *, not knowing whether he would desire to have it done or not.

river (except those at the ferries, which were well guarded) had been seized and taken care of by the officers of Government. There was but one exception. Captain M'Afee, of Bertie, who resided on the banks of the Niagara, opposite the head of Grand Island, was believed to have kept one of his boats locked up beside his carriages. I hesitated not a moment in advising Mr. C—— to state the difficulty I was in to him, in case he had a boat, for, although he had no knowledge of, or belief and participation in, the outbreak, yet he was well known to be a strictly upright man, benevolent, not covetous, a member of the Methodist Episcopal Church, very religious, and in all he said or did, very sincere.

“The brothers De Witt are censured, for giving up to Charles II, (who had been himself a fugitive,) and to a cruel death, three of his father's Judges; and the poor and gallant Scotch Highlanders, whom a mammoth bribe of £30,000 could not tempt to betray the heir to the Crown, when a wandering fugitive in the native land of his royal ancestors, are held in honor. The Irish peasants who refused to give up Lord Edward Fitzgerald to his country's oppressors, for gold, the poor sailors who enabled Archibald Hamilton Rowan to escape from Ireland and an untimely fate, with the proclaimed reward on a handbill in their boat, and the three bold Englishmen who saved the life of the doomed Labedoyere, have the merited applause of an admiring world. Are these noble citizens of Upper and Lower Canada, whom wealth could not tempt to give up, nor danger deter from aiding and saving, their fellow men, though many of

them were opposed to them in politics, and at a time of the strongest political excitement, are they less deserving of the meed of public approbation?

“Mr. Samuel M’Afee is now over sixty years of age, and, I think, he is of the New Hampshire family of that name, who played their part like men, in 1776. Our movement had proved a failure, and he knew it. He was wealthy—had a large family—and risked everything by assisting me; yet he did not hesitate, no, not even for a moment. . . .

“As well as I can now remember, it was about nine on Monday morning when I reached his farm, which was one of the finest on the river—an excellent breakfast had been prepared for us, and I was much fatigued and also hungry. But there was a military patrol on the river, and before sitting down to a repast, I thought it safe to step out and see if the coast was clear. Well for me it was that I did so. Old Colonel Kerby, the Custom House officer opposite Black Rock, and his troop of mounted dragoons, in their green uniforms, and with their carbines ready, were so close upon us, riding up by the bank of the river, that had I not then observed their approach, they would have caught me at breakfast.

“Nine men out of ten, in such an emergency, would have hesitated to assist me; and to escape by land was, at that time, evidently impossible; Mr. M’Afee lost not a moment—his boat was hauled across the road and launched in the stream with all possible speed—and he and Chandler and I were scarcely afloat in it, and out a little way, below the bank, when the old Tory Colonel, and his green-coated troop

of horse, with their waving plumes, were parading in front of Mr. M'Afee's dwelling.

"How we escaped here, is to me almost a miracle. I had resided long in the district, and was known by everybody. A boat was in the river, against official orders; it was near the shore, and the carbines of the military, controlled by the collector, would have compelled us to return, or have killed us for disobedience.

"The colonel assuredly did not see us; that was evident: he turned round at the moment to talk to Mrs. M. and her daughters, who were standing in the parterre in front of their house, full of anxiety on our account. But of his companions, not a few must have seen the whole movement, and yet we were allowed to steer for the head of Grand Island with all the expedition in our power, without interruption; nor was there a whisper said about the matter for many months thereafter.

"In an hour we were safe on the American shore; and that night I slept under the venerable Colonel Chapin's hospitable roof, with a volunteer guard."

CHAPTER VI.

Meetings of Sympathizers at Buffalo and Oswego—Thomas Jefferson Sutherland claims to be the Author of the Project of occupying Navy Island—Rensselaer Van Rensselaer becomes Commander-in-Chief of the Patriot Army—Governor Head demands the Extradition of Mackenzie, and Governor Marcy refuses to surrender him—The first Twenty-six land on Navy Island—A Provisional Government Established—Issues Proclamations—The Patriot Flag and Great Seal—How and of whom the Navy Island Force was formed and how equipped—Habits of the Commander-in-Chief—Bombardment—A Patriot Emissary sent through the Western Part of Upper Canada returns with the Report that a Large Majority of the People are waiting to join the “Liberators”—Four Hundred and Eighty two sworn Insurgents in the County of Hastings.

BEFORE the plans of the Upper Canada insurgents were known, an influential meeting of the citizens of Buffalo, a frontier city on Lake Erie, in the State of New York, to express sympathy with the Canadian revolution, was held. At this meeting, which took place on the 5th of December, an Executive committee of thirteen, with Dr. E. Johnson at its head, was formed, for the purpose of “calling future meetings in relation to the affairs of the Canadas and to adopt such measures as might be called for by public opinion.” This committee afterwards played an important part in forwarding the movements of the exiles and sympathizers. On the 6th of December, Mackenzie addressed a short letter, from the insurgent camp on Yonge Street, to the Buffalo Press, explaining the at-

tempt at independence that was being made, and requesting such assistance as the citizens of the Republic might think proper to afford. Two days after, a similar demonstration took place at Oswego. On the 11th of December, when Mackenzie had arrived on the south side of the frontier line, the largest public meeting ever seen in that city, was held in the theatre at Buffalo to express sympathy with the Canadians. "Our neighbors in the North," said Dr. Chapin, "are at war, fighting for liberty. We have met to express our sympathy and good wishes." After cautioning the meeting to act prudently, he added, "I have one word more to say; I have men now under my protection, at my house, on whose life a price is set, and whom I am bound to protect." "Who are they?" was the prompt inquiry. "One of them is William L. Mackenzie." At this announcement, the chronicles of the day report, "the vast assembly burst into a thunder of applause. We never saw such a scene," the reporter adds; "never heard such a shout of exultation."* When the outburst of enthusiasm had subsided, Dr. Chapin continued. "Fellow citizens," he said, "Mackenzie's life is in our power—he has thrown himself upon our protection—will you protect him?" "We will," was the unanimous response; to which was added a desire that he should be brought forward. Dr. Chapin pleaded the sickness and fatigue of his guest; but added, "To-morrow night he shall address you. I am an old man; but at the hazard of my life I will protect those who throw themselves upon my hospitality. If any scoundrels, for

* *Buffalo Commercial Advertiser.*

the sake of the \$4,000 reward that is offered for him, shall undertake to get him, they must first walk over my body. I want six strong, brave young men, as good sons as God has got among us, to go to my house to-night, for fear of any attempt on the part of the loyalists." "A hundred are ready," was the response. "No," rejoined the venerable Doctor, "I want only six. Who'll go?" "I—I—I" was heard all over the theatre. The first who sprung upon the stage were accepted. Mr. Stow, being called upon to address the meeting, demanded: "Shall we refuse the Canadians what was granted by a corrupt court of France to Franklin, when he went upon the same errand?" By giving their sympathy and assistance, the people of the United States, he argued, would only be doing what England did in the wars of the Peninsula, the taking of Copenhagen, and the attack on the Turkish fleet at Navarino. The meeting broke up with cheers for Mackenzie, Papineau, and Rolph.

Next night, true to the promise made by Dr. Chapin on his behalf, Mackenzie appeared at the Buffalo theatre, where he addressed a large and enthusiastic audience. He explained the causes of the revolt, and argued that Canada was suffering all those evils which caused the thirteen Colonies, now become the United States, to throw off their allegiance to England; a country of which the Government at home was good, but uniformly bad abroad.

Before the meeting closed, Mr. Thomas Jefferson Sutherland stated his intention of going to Canada, as a volunteer, to assist the Canadians to obtain their independence; and he asked if any others present

were willing to join him. At his request, a person in the meeting asked the people present to contribute arms and munitions of war for the benefit of the people of Canada, and to take them to the Eagle tavern. In accordance with this suggestion, contributions of arms were made. Sutherland claims the conception of the plan of occupying Navy Island with a military force; and on the 19th of December, 1839, he made oath that he set about carrying this project into effect without the privity or co-operation of Mackenzie.* He added that Mackenzie only joined the Navy Island expedition out of motives of personal safety. Mr. Mackenzie had not been long in Buffalo before he was introduced to Mr. Rensselaer Van Rensselaer, by some of the principal people of the place. They represented him as a cadet of West Point; and as having gained experience under Bolivar, in South America; both of which representations proved incor-

* I find in a manuscript book of "Navy Island Memoranda," the following document, without date, to which ninety-seven names are appended; that of Sutherland being first: "We, the young men residents of the City of Buffalo, whose names are hereunto subscribed, pledge to each other our mutual support and co-operation, for the commendable purpose of aiding and assisting our Canadian brethren in their present struggle for liberty and those principles which have given to the world that asylum which we have the honor of calling our home, and which pronounces to mankind the sacred dogma of equality."

On the 21st of December, Marshal Garron wrote from Rochester to N. P. Benton, District Attorney: "I arrived here last night at ten o'clock; sent for General Gould and some others of this place. There is much excitement here; forty soldiers marching the streets of Rochester to-day under drum and fife; two pieces of cannon went off this morning, and three-fourths of the people here, I learn, are encouraging and promoting the thing, and seven-eighths of the people at Buffalo, and all along the lines are taking strong interest in the cause of the patriots; many furnishing arms, and large quantities of provisions contributed and forwarded to them, and volunteers continually going on."

rect. He was a son of General Van Rensselaer of Albany, and belonged to the influential family of that name, in the State of New York.* Another person to whom Mr. Mackenzie was introduced was Mr. Sutherland, of Buffalo, who was described as a military man of experience. Sutherland soon showed that he was totally wanting in discretion, by publicly recruiting for volunteers for Canada, issuing a public call for a military meeting, and marching through the streets to the sound of martial music. Mackenzie, seeing the folly of the procedure, begged Sutherland to desist; but it was to no purpose.

At that time, it was thought that Dr. Duncombe was at the head of a large force in the Western District of Upper Canada; and Mackenzie wished the friends of the Canadian insurgents to go over to Fort Erie, on the

* He was for some time employed as a clerk in the Post-office, at Albany, under his father. He married a daughter of Maj. S. S. Forman, of that city. After his connection with the Canadian patriots, and his imprisonment for a breach of the United States Neutrality Laws, arising out of that connection, he settled at Albany. Of a proud and ambitious temper, his disappointments cast a melancholy gloom over his existence. He became pecuniarily embarrassed, and the loss of one of his children, to whom he was devotedly attached, caused him to take the dreadful resolution of putting an end to his existence. On the 1st of January, 1850, his wife and her father complied with an invitation to visit at the house of a friend. He remained at home, complaining of being unwell, but promised that if he improved he would follow. In the course of the afternoon, he ordered a man-servant to fill a portable furnace with charcoal and place it in the library. This was done. After a while more charcoal was ordered and taken. The servant went a third time of his own accord to take a fresh supply, when he found his master stretched pale and lifeless upon the sofa. Van Rensselaer was of a literary turn of mind, and in his latter years spent much of his time among books, occasionally contributing articles to agricultural periodicals. The Albany newspapers, in chronicling his melancholy death, described him as "highly respected in the circle of his acquaintance, and in his intercourse with the community, quiet and unobtrusive."

Canada side, and there organize a force that should join that of Duncombe, or act separately, if that should appear to be the best course. But he was overruled; and it was determined that the refugees and their friends should take up a position on Navy Island. This island, awarded to England by the Treaty of Ghent, is situated in the Niagara River, a short distance above the world-renowned cataract. A swift current sweeps past the island on either side, on its way to the vast abyss below; but its navigation is practicable for steamers or row boats. Van Rensselaer had been urged by Sutherland to take command of the Patriot forces; Sutherland, being previously unknown to Van Rensselaer, had brought a letter of introduction from Mr. Taylor, a previous Speaker of one branch of the Legislature of New York. He was told that he would derive his authority from Dr. Rolph and Mackenzie; and he was to be invested with the entire military command. Van Rensselaer's own account of the reasons that induced him to accept this position,* represents him as wishing the success of the cause of republicanism, and desirous to imitate the example of Sam Houston, in Texas. "Dr. Rolph," says Van Rensel-

* He was impressed with the idea "that Canada was only prevented from throwing off the yoke of foreign despots; and notwithstanding the unfortunate issue of the ill-concerted battle of Toronto, that a vast majority of the people were in favor of a political revolution; that if one successful battle was fought and a good stand maintained for a time, they would concentrate their forces, and do their own fighting afterwards. With the hope of being instrumental in hastening a crisis so desirable to all the republican world my wish as a Northerner to see the chivalrous example of the South in the case of Texas emulated here—my innate detestation of tyranny and oppression, however manifested—finally relying upon numberless promises of being sustained, and trusting in the smiles of heaven, I accepted the offer."

laer, "went so far as to propose, himself, and to insist that I should have the power to arrest any member of the Executive Council, provided it became necessary to do so, in order to prevent his interference in my department. Mr. Mackenzie," he adds, "after a slight show of opposition, was obliged to acquiesce."

In the meantime, it became known that Lieutenant Governor Head was about to make a requisition upon Governor Marcy, of the State of New York, for the extradition of Mr. Mackenzie as a fugitive from justice, for alleged crimes growing as incidents out of the insurrection. Dr. Bethune was selected as the bearer of the dispatch in which this demand was made. Governor Marcy declined to comply with the application, on the ground that the offences charged, being incidents of the revolt, were merged in the larger imputed crime of treason, a political offence excepted by the laws of the State of New York from those for which fugitives could be surrendered. Attorney General Beardsley, at the request of Governor Marcy, drew up an elaborate opinion, in which the inadmissibility of the demand was shown. But, before the demand was presented to Governor Marcy, Mr. Mackenzie had passed from the limits of the State of New York; and as he was on British territory, the proper course would have been for Sir Francis Bond Head to send to Navy Island and take him. The real object of this demand was to obtain possession of a political refugee, under the pretence that he was guilty of other offences, and execute him for high treason, with which he was charged. Without seeing the documents in which the demand was made, and trusting to public rumor

that one of the charges related to the death of Colonel Moodie, Mr. Mackenzie declared his readiness to meet that charge and submit to a trial. "I distinctly offered," he says, "by letter addressed to Mr. Secretary Stanley, to go over at once to Toronto, and stand my trial on any charge that had been made by Governor Head, or that might be made by any other person, relative to the part I took in the death of Col. Moodie, no matter who might be the judge or jurors."

On the thirteenth of December, Van Rensellaer and Mackenzie landed on Navy Island. They called at Whitehaven, on Grand Island, ten miles from the City of Buffalo, on the way. There they expected to find assembled the volunteers, by whom they were to be accompanied, and of whose numbers, enthusiasm, and equipment so much had been said. These volunteers had been represented as two hundred and fifty strong, and as having two pieces of artillery and some four hundred and fifty stand of arms, besides provisions and munitions in abundance. The surprise both of Mackenzie and Van Rensellaer must have been great when they found only twenty-four volunteers waiting to accompany them. "I was not prepared," says Van Rensellaer, "for such a surprising falling off. Mr. Mackenzie, on noticing it, sank inert and spirit-broken upon the frame of a cannon, where he passively reclined until aroused by a false alarm."* But even this crushing disappointment was not to put an end

* The published letter of Van Rensellaer, dated March 30, 1838, from which I here quote, was written in a spirit of hostility to Mr. Mackenzie, to whom the writer, in a letter now in my possession, dated Albany, February 24, 1840, admits that he was unjust.

to the enterprise. It was expected that the promises of assistance so liberally made would be realized; and, says Van Rensselaer, "trusting in the good faith of our friends and in Providence, the word was given, 'Push off.'"

A provisional government, of which Mr. Mackenzie was President, was organized on the island. A proclamation, dated Navy Island, December 13, 1837, was issued by Mr. Mackenzie, stating the objects which the attempted revolution was designed to secure, and promising three hundred acres of public lands to every volunteer who joined the Patriot standard.* A few days after, another proclamation was issued, adding \$100 in silver, payable by the 1st of May, 1838, to the proffered bounty.† The fulfilment of the promises held out in these proclamations must, however, be dependent upon the success of the cause in which the volunteers were to fight. By way of burlesquing the rewards offered by Sir Francis Bond Head for Mackenzie and others, the first proclamation offered the sum of £500 for the Lieutenant Governor of Upper Canada. The offering of this reward was the main cause that induced Sir Francis, on his return to England, to forego his intention of passing through the

* See Appendix G.

† "PROCLAMATION.—Three hundred acres of the most valuable lands in Canada will be given to each Volunteer who may join the Patriot Forces now encamped on Navy Island, U. C. Also, \$100 in silver, payable on or before the 1st of May next.

"By order of the Committee of the Provincial Government.

"W. L. MACKENZIE,

"*Chairman Pro. Tem.*

"Navy Island, Tuesday, Dec. 19, 1837."

States. At his request, Sir John Harvey, Lieutenant Governor of Nova Scotia, secured him a passage in a vessel sailing from Halifax.

The Patriot flag, with its twin stars, intended to represent the two Canadas, was hoisted; and as a government, even though it be provisional, is nothing without a great seal; this requisite was also obtained. Besides the twin stars, the great seal showed a new moon breaking through the surrounding darkness, with the words *Liberty—Equality*. The Provisional Government issued promises to pay in sums of one and ten dollars each. They are said to have been freely taken on the American side;* but what amount was issued I cannot ascertain. Dr. Rolph was appointed, on the 28th of December, “to receive all the moneys which may be subscribed within the United States on behalf of the Canadian patriots struggling to obtain the independence of their country;” but he declined to act in that capacity.

The men were quartered in huts made of boards; and the head-quarters of the Provisional Government and the General-in-Chief differed from the rest only in being of greater dimensions.

How the handful of men who first took possession of Navy Island came to be swelled to between five hundred and six hundred, must now, for the first time, be explained. All the correspondence on Navy Island was conducted by Mr. Mackenzie; and the numerous

* The best proof of the truth of this assertion is to be found in an official report of one of the Patriot Generals to Mackenzie, dated January 26, 1838, relating an offer of the owner of the brig *Virginia*, to sell her for \$8,500, and take his pay in bonds.

letters addressed both to him and Van Rensselaer, none of which have ever been published, are now in my possession. Let it not be supposed that the Provisional Government was free from the trouble of dealing with applications for situations. Surgeons offer their services to attend the wounded; engineers seek employment in their line of business; military veterans offer to train citizens into soldiers. Several persons who have held positions as officers in the militia of the different States, and some who have been in the army of the United States, tender their services on condition that they obtain equivalent positions in the Patriot army. The motives of persons offering their services were various. Most of them appear to have been impressed with the idea that it would be a fine thing to join an army intended to give liberty to an oppressed people. Some betray their hatred of England; others, their fear that the fact of that country possessing a large part of this continent, is a source of danger to the United States. Some want employment; others seek adventure. A large number of those who went to the island, or whose services were offered, were provided with letters of introduction guaranteeing their respectability. To come to details, by way of example: A society sends word it has money to give to the cause; and could, if the law permitted, send one hundred men. An old man offers four hundred acres of land in Canada for the soldiers. "Are you sufficiently supplied with cannon?" one person writes, "and if not, let me know whether it be very important that you should be supplied with them." A man who lost \$3,000 worth of property in Canada, by what

he describes as the fraud of enemies, wants to know whether he would get it back, if he assisted the Patriots and they were successful. A person writes to inform Van Rensselaer that there are, at Batavia, two thirty-six pounders, one eighteen pounder, two thousand stand of arms, one hundred cannon balls, five hundred musket cartridges, and various other materials. Another sends a lot of cartridge boxes, by way of Schlosser. The state of the roads prevents one person desirous of volunteering from going and taking a six pound brass cannon with him. One letter tells of a meeting at which a resolution was come to to join the Patriots, in case of war between England and the United States. A dejected correspondent relates how the interference of one man prevented fifteen volunteers from starting. At a meeting held to denounce the destruction of the *Caroline*, which I shall soon have occasion to describe, ten volunteers started for the island. A number of persons forward provisions; and they are careful to remark that their object is not to aid in a war against England, but that the duties of humanity forbid them to see their fellow men exposed to the possibility of want. One old cannon is sent and another is promised, with the remark, "If you want cannon, we are ready to cast them for you."

An ex-member of the Legislature of New York, with two certified captains, go with a letter of introduction, to confer with Van Rensselaer as to what measures the sentries—of an arsenal I presume—might take to furnish warlike supplies, without infringing the law. A Rochester editor gives a letter of introduction to "an efficient friend of the Patriot cause."

Several Germans, residing in Philadelphia, political refugees from their own country and members of patriotic associations in Europe, "intimately connected with the Liberals and Republicans of France, Switzerland, Germany, and England," send word that they are desirous to "hasten to the standard of liberty, rather from their burning love of the immortal cause than with any expectation of reward." They are represented as men of education and great influence; one, who was a major in the Prussian army, had gained distinction; and they could bring assistance from Europe. Daniel McCleod, late major in the Grenville Militia, who was making a tour along the frontier, in company with Silas Fletcher, to beat up volunteers and arms, reports that they will dispatch several Canadians to the island next day—the letter is dated Watertown, January 2d, 1838—with two field pieces and other arms. He reports that "arms in abundance can be had for the asking." In the same letter, the notorious Bill Johnson—Admiral Johnson I believe he was called—who afterwards took up a position among the Thousand Islands of the St. Lawrence, is described as a man in whom it is perfectly safe to confide. Fletcher gives him a separate certificate, describing him as a gentleman of intelligence, equal to fifty ordinary men. He is recommended for a commission, because "he can greatly annoy the Kingstonians;" and besides "his influence" is described as being so great "that he can raise, in this quarter, two hundred bold volunteers as ever drew a trigger." From Sackett's Harbor, Fletcher writes: "The inhabitants led us into town by a procession, colors flying,

guns roaring, and shouts of 'God prosper the Patriots!'" A letter with seven signatures suggests, that if the proclamation of the Patriots "can be so amended that the aggrieved can have their just due, in case of success, you can have the assistance of many wealthy and able citizens, who were driven from their lands and property in Canada, during the last war." From another source go funds, blankets, guns, and men. An old man writes: "I have followed the greatest cavalry officer in the world, Murat, from the deserts of Africa to the cold plains of Russia. I have fought at Lodi and Hohenlinden, at Moscow and Waterloo." After asking a commission in the cavalry force for a well trained lad of nineteen, he adds: "I am now old and poor; but if you will grant my request, I will send you my son, the last descendant of a noble line of warlike commanders of France." A man who has been "preaching the gospel," in the neighborhood of Toronto, sends the Patriots word of what is doing on there. Another Canadian declares his belief that all is over, unless there be a war between Canada and the States. A vigilant friend warns the Navy Islanders that the Tories have sent a negro cook to poison all the Patriots; and Sutherland, being in Buffalo, hears the same story and repeats it. A sympathizer, in offering to raise a cavalry squadron, desires to know how soon a regiment will be required, and if equipments can be furnished by the Patriots. The Patriots are warned that the United States Marshal is going to interfere with them. Van Rensselaer is warned that the United States Government is about to demand and insist upon receiving back the arms

said to belong to it; and he is asked whether, if it should come to a question of having to surrender either to Great Britain or his own Government, it would not be better to have to deal with a generous foe than a false friend. A friend sends the system of tactics drawn up by order of the United States Secretary of War for the discipline of citizen soldiers. A West Point graduate contributes instructions for the defence of the island. A company of riflemen, under a leader who served in the last frontier war, offer their services. An American militia officer, who has command of a regiment, is ready to raise one for the Patriot service. An Upper Canadian writes that he can raise forty volunteers. The Patriots are notified of the approaching arrival of three loads of armed men and fourteen kegs of powder. A present of grape shot is announced. The next boat is to convey two or three pieces more artillery. From another quarter are to be presented two hundred muskets, besides other arms and stores. It is announced that provisions are being sent; and that the country people are doing wonders. "An empty hand, a stout heart, and fair knowledge of military tactics," are proffered. Donations of blankets, boots, shoes, and stockings are sent from one quarter; from another go blankets alone. A baker sends one hundred and seventeen loaves of bread "for the good of the cause." On the 30th of December, arrangements were made for getting eight tons of grape and nine pound shot made. A discreet man, if such a one could be found, could raise three hundred volunteers in Albany. Two loads of beef, pork, and bread, are sent, "with some

gentlemen well equipped for fight." The son of a Lieutenant-Colonel in the United States army, who has been two years at a military academy and is a pretty good master of military tactics, could bring a number of young men with him. One hundred muskets, word is sent, may be expected in forty-eight hours. A late Lieutenant in the United States army, who was in the war of 1812, desires to be appointed Brigadier General of the patriot force. A letter from Batavia, N. Y., says: "We have sent off from our village four loads [of volunteers], and at the moment I am writing, another load is on the point of starting." This correspondent was about getting up a county meeting; at which he expected something "substantial" would be done for the Patriots. In making a donation of a cannon, a sympathizer explains how he got it. "I have been keeper of the State arsenal of this place for more than thirteen years. When I took charge, I found that gun in the village, but not in the arsenal. I have therefore, in my annual returns to the commissary department, never reported said gun." This guardian of the State arsenal had mentioned his intended destination of the stray gun, at a public house; and "some of the citizens felt and expressed a warm anxiety in favor of the project, and now talk of mounting and completely equipping it for service, by voluntary subscription."

In this way was the force on Navy Island augmented from the original number of twenty-six to about six hundred. From the 15th to the 31st of December, the majority of those present were British subjects. After that date, the American element was

probably in the ascendant.* The arms and provisions were chiefly obtained from the States. The rolls of names have been preserved, with a partial diary of occurrences.

Van Rensselaer's conduct, while on the island, has been the subject of much obloquy. While his bravery is admitted, he has been especially accused of almost habitual intemperance; and though he denied the charge, in letters it has fallen to me to peruse, Gibson, Graham, and others, who were on the island with him, have left on record their opinion that his intemperance ruined the prospects of the Patriots. One who was a witness of his habits, assures me that Van Rensselaer made a pretty equitable division of his time between drinking brandy, of which he always had a bottle under his head at night, and writing love-letters. His own account, contained in an unpublished letter, gives him more serious employments.† He admits to have been occasionally under strong mental excitement, and particularizes two occasions: when the Patriots fired

* Van Rensselaer, in a published letter dated March 29th, 1838, stated that the Canadians always continued in a majority on the island; but I am not sure that his authority is reliable on this point.

† He describes himself as spending the day in "plodding four weary miles through mud and water, round our little republic, to dispose of the recruits and superintend the erection of defences. On my return, nearly prostrate with fatigue, haggard and careworn, when seated in my quarters to partake of a much needed meal, perhaps a call to receive a boat load of visitors, or an alarm which was always occurring at first, attended to in person, would compel me to leave it untouched. So at night, when reclined in full dress to snatch my 'day's' slumber, the same causes would often oblige me to forego even that; and for the first fortnight I never had more than an hour's sleep at a time, frequently not more than two hours out of twenty-four. Nor did I undress myself once during the whole period of my stay. * * * I was ever ready to incur any danger and willing to submit to any hardship or privation, in order to inspire my men with confidence, and to insure their comfort and welfare."

their first gun, and again, "when Capt. Elmsley, with his boat's crew, at early dawn, made his way in safety round the island, under fire of our guns. He came off, I am told," adds Van Rensellaer, addressing Mackenzie, on the information of the spy Genouing, "to seize you on your intended passage to the American shore."* Having the entire military power in his hands, Van Rensellaer chose to keep his plans to himself, and his refusal to act or explain his intentions finally exhausted the patience of his men. The latter were anxious to cross to the main land.

* Genouing, an American by birth, was employed as a spy by the Federal authorities, and it was admitted by District Attorney Rodgers that he rendered important service to the Government. He acted under the orders of General Worth. But so odious was his calling regarded by the American people that wherever he presented himself he was set upon by a mob; and for safety he was once locked up a fortnight in a private room of the District Attorney. After some time he fled to Toronto, the American authorities being unable to protect him; but whether he remained there or went back to some part of the States where he was not known, I am not aware. The royalists had a number of spies in their service, one of whom offered to sell their secrets to the Patriots; but he would tell nothing unless he were paid. His name was Jones, an Englishman by birth, and a dentist by profession. He was a sort of sub-spy, employed by one Matthew Hayes, who had been a sergeant in the Fifteenth Regiment. He went to Navy Island on the 21st December, learnt what he could, repeated what he knew to his employers, and became a witness against some prisoners who were afterwards taken. While on the island, he was suspected and detained by Mackenzie, when he employed Jones to carry letters to the royalist forces. Early in January, he offered to sell the secrets of his employers. He pretended to know the point of intended attack, and said the simplicity of the plan was a guarantee of its success. He could, he said, instruct the Patriots how to throw up works in an hour that would frustrate the project. He also added, that if a thousand Patriots were to cross to the main land, half the royalist army would desert and join their standard. Among the host of other spies who visited the island were persons named Farnsworth, Smith, Wrigley, and Thorne. From these persons the royalists must have been thoroughly acquainted with the condition and force of the island.

The defences made on the island consisted of trees thrown along the lower banks, and extending into the water, where there was reason to anticipate that a landing would be attempted. A road was cut in the woods round the island, near the margin, that men and cannon might be moved to any point where required. A loyalist force, at first under Col. Cameron, and afterwards under Col. McNab, appeared on the Chippewa side, and a bombardment commenced. The island was scarcely out of musket range of the main land, where the British forces were stationed; and one man, on the main land, was killed from the island by a musket or a rifle. But for all this, the fire of the loyalist cannon and mortars, kept up day after day, was almost entirely harmless; only one man on the island being killed by it. The extent of the mischief done by the Patriots was greater, because they were not baffled by woods, on the main land, where the enemy was encountered. But the effect of the fire of the twenty-four cannon in possession of the Patriots was very small. Many of the houses on the Chippewa shore were pierced with stray balls; but the number of persons killed was insignificant. The men got impatient under the ineffectual efforts they were making; and Van Rensselaer was repeatedly urged to lead them to the enemy who neglected to come to them. In reply to these importunities, he would answer that when his plans were complete he would announce them; that in the meantime it was for the men to hold themselves ready to execute his orders. At one time he consented that the forces should cross to the main land; and Capt. Gorham went to Buffalo to try

to get a steamboat for that purpose, but the vigilance of the United States authorities prevented his succeeding. Van Rensselaer stated in a letter to Mackenzie, dated Buffalo, January 21, 1838, that when they were about securing the steamboat *New England*, Gen. Scott outbid the Buffalo Committee by \$500, and carried off the prize.

What gave courage to the patriots was the belief that the moment they crossed over to the main land, they would be joined by large numbers of the population anxious to revolutionize the Government. Chandler, who assisted Mackenzie in his escape, was sent over to distribute proclamations and ascertain the feeling of the country. He returned to the island with the report that a large majority of the population was ripe for revolt, and only awaiting assistance to fly to arms. Such loose information as this is liable to mislead; but there were parts of the country from which Mackenzie had much more precise information. From the county of Hastings he had lists of four hundred and eighty-two persons who had "pledged themselves upon oath to embark their lives, their honor, and their fortunes in the cause of liberty."* Hastings was far from being one of the most disloyal counties in Upper Canada; and when it furnished nearly five hundred sworn rebels, some idea may be formed of the extent to which the revolutionary feeling had infected the population. With such information as this in his hands, a man of Mr. Mackenzie's impetuous tempera-

* These words are from the secret communication. The four hundred and eighty-two were distributed as follows: Bellville, 41; Thurlow, 93; Sidney, 165; Rawdon, 86; Tyendenago, 37; Huntingdon, Madac, and Hungerford, 60.

ment was not likely to be at ease under the inaction to which Van Rensellaer, as Commander-in-Chief, doomed the men under his control. But it is not difficult to conceive why Van Rensellaer hesitated to move in the face of a vastly superior force, in the midst of a Canadian winter, where a single night's piercing frost might prove fatal to an army on the move.

CHAPTER VII.

Destruction of the Steamboat *Caroline* by the Loyalists—Proceedings of the United States and the State Authorities in regard to Neutrality—Colonel McNab knighted—Swords presented to him and Captain Drew by the Upper Canada House of Assembly—Was the Destruction of the *Caroline* necessary or advisable?—Trial of Alexander McLeod for the murder of Amos Durfee—England apologizes for the Destruction of the *Caroline*—The Steamer *Sir Robert Peel* burnt in retaliation—Mrs. Mackenzie on Navy Island—Mackenzie goes to Buffalo, is arrested for a Breach of the United States' Neutrality Laws, and enters into Recognizances—The Steamboat *Barcelona* takes the Patriots from the Island.

UP to the 29th of December, the volunteers on Navy Island had increased slowly, and they did not yet number quite two hundred. About an hour after midnight, an event occurred which for some time threatened to produce war between England and the United States. "We observed," says Mr. Mackenzie, "about one o'clock, A. M., a fire burning on the American side of the river, in the direction of the small tavern and old storehouse, commonly called Schlosser. Its volume gradually enlarged, and many were our conjectures concerning it. At length the mass of flame was distinctly perceived to move upon the waters, and approach the rapids and the middle of the river above the falls. Swiftly and beautifully it glided along, yet more rapid in its onward course

Navy Island the Headquarters of the Insurgents, as seen by the light of the burning Caroline.



as it neared the fathomless gulf, into which it vanished in a moment, amid the surrounding darkness. This was the ill-fated steamboat *Caroline*."

Col. McNab, in ordering the vessel to be cut out, acted under the misapprehension that she had been purchased by what he called the "pirates" and rebels* on Navy Island. The ownership of the vessel is not a matter of much importance, since she was running for the accommodation of the patriots. But she was being run as a private speculation by her owner, Mr. William Wells. Col. McNab, in the course of the 29th, sent two officers to watch the movements of the *Caroline*.† They reported that they had seen her land a cannon and several men armed and equipped as soldiers; and that she had dropped anchor on the east side of Navy Island. He therefore determined

* Rebels they certainly were, but by no possible latitude of language could they be called pirates. Sir Francis Bond Head readily adopted the loose and inaccurate designation, and even Mr. Fox, the British Minister at Washington, applied it to the American portion of the force. Piracy is described by writers on international law, as "robbery or a forcible depredation on the high seas, without lawful authority, and done *animo furandi*, and in the spirit and intention of universal hostility." This description was totally inapplicable to a body of men whose sole object was to revolutionize the Government of Upper Canada, and set up another in its stead.

† Alexander McLeod, being at Buffalo, on Christmas eve, heard that the *Caroline* was going to run between Schlosser and Navy Island; and he went and informed Colonel McNab of the fact. On the morning of the 28th, he, Captain Graham, and some others went round the island in a boat, but did not see her. About two in the afternoon, they saw her crossing from Schlosser to Navy Island. Though Sir Allan McNab refused, in his evidence in McLeod's trial for the murder of Durfee, in the *Caroline* fray, to give the names of the persons from whom he received his information about the vessel, there can be no doubt that McLeod was one of them.

to destroy her that night.* Captain Drew,† R. N., was instructed to collect a force of volunteers to burn, sink, or destroy the vessel.‡ The requisite number of volunteers were obtained, and at the moment of their embarkation, many of them were kept in ignorance of the service they were required to perform. All Captain Drew condescended to tell them, in asking them to take part in the enterprise, was "that he wanted a few fellows with cutlasses, who would follow him to the devil."§

The expedition comprised seven boats,|| with an average of about nine men each, armed with pistols, cutlasses, and boarding pikes. This force of some sixty persons pushed off from the mouth of the Chipewewa River about eleven o'clock. The jolly boats

* Sir Allan McNab's evidence in McLeod's trial. John Sheridan Hogan used to complain that the credit of the project for destroying the *Caroline*, due to him, was usurped by another. Whatever truth there may be in this story, it will afterwards appear that Hogan entered into a conspiracy for bringing about a war between England and the United States, on account of the destruction of this vessel.

† On the 20th of December, Col. McNab, entrusted with the command of the loyal forces on the frontier, appointed Captain Drew to take charge of the Naval Department, and to organize a force of armed vessels and boats as a flotilla to protect the landing, and transport one thousand men to Navy Island. They were never sent.

‡ Captain Drew's letter to Colonel McNab, December 30, 1837.

§ Sir Francis Bond Head's dispatch to Lord Glenelg, Toronto, February 9, 1838. Most of the commanders of the boats selected their own men. Colonel McNab asked some besides Capt. Drew; and though some, if not all of these were in the secret, Col. McNab did not give his final orders, which were verbal, till a few minutes before the boats started.

|| Captain Drew says there were only five boats, but in this he is contradicted by a dozen Canadian witnesses on the McLeod trial, all of whom state from personal knowledge—being engaged in the expedition—that seven boats started, and five reached their destination. One grounded on Buckhorn Island, and another was provided with inefficient rowers.

were respectively commanded by Captain Drew, Lieutenants M'Cormack, John Elmsley, and Christopher Bier, all of the Royal Navy; Mr. John Gordon, captain of the steamboat *Britannia*, running on Lake Ontario; Mr. Thomas Hector, of Kingston, and Lieutenant Battersby of London, Canada West. When they had got opposite Navy Island, Captain Drew ordered the men to rest on their oars, when he said to them: "The steamboat is our object; follow me."* Captain Drew, in his report of the transaction, leaves it to be inferred that he expected to find the steamer at Navy Island; but whether there were good grounds for such an expectation or not is of no consequence, since his orders were to destroy the steamboat wherever he could find her.† But they soon discovered that she was at the wharf at Schlosser, on the United States side of the Niagara River.‡ The boats went silently towards the fated vessel, and do not appear to have been discovered till within a few yards of

* Lieutenant Bier and Mr. Cleverly's evidence in the McLeod trial. Sir F. Head (dispatch to Lord Goderich, February 9th, 1838) says Drew communicated to the men the object of the expedition as soon as they had pushed off; but it is not likely they would rest on their oars in that rapid current till they got in shelter of Navy Island.

† Sir Allan McNab's evidence in McLeod's trial. Lord Ashburton was hardly warranted in stating, in his letter to Mr. Webster, July 28, 1842, that "the expedition was sent to capture the *Caroline* where she was expected to be found on the British ground of Navy Island, and that it was only owing to the orders of the rebel leader being disobeyed that she was not so found." The orders of the rebel leader were not disobeyed.

‡ Captain Drew in his report to Col. McNab, December 30th, 1837, states that a vessel was "moored between an island and the main shore." It is called Horne's Island, and is about thirty rods from the main land—Evidence of James King on McLeod's trial. But several witnesses who accompanied him, stated under oath, when their evidence was taken by commission in McLeod's trial, that she was fastened to the wharf at Schlosser.

her.* The hands belonging to the steamer had gone to Niagara Falls that night, and Mr. Wells had allowed strangers—two of whom were sailors—to occupy their berths till their return. They came back at twelve; but the strangers do not appear to have left before the attacking party arrived. The crew of the steamer, which was only of forty-six tons measurement, consisted of two men and a black boy. The watch on deck was prevented by the shade of the buildings from seeing the boats till they were near; and at first he supposed the crews to be Indians. The sentry on the gangway hailed the approaching boats, and in a hurried manner called out, “Boat ahoy! who comes there?”† A man in the leading boat replied, “Friends.”‡ The sentinel then, turning to alarm the slumbering crew of the doomed vessel, shouted, “Turn up, boys, the enemy are coming!”§ In reply to the sentinel’s demand for the countersign, Captain Drew said: “I’ll give it to you when we get on board.”|| At this time, Captain Drew was close to the vessel; and the sentinel, fully comprehending that an assault was to be made on the vessel, is said to have fired; but whether with a pistol, a musket, or a rifle, it is impossible to determine from the conflicting evidence. He denies having fired at all, or being armed. The steamer’s crew being surprised asleep, and having scarcely any other arms on board

* Captain Drew says they were not discovered till within twenty yards; Sir F. B. Head says fifteen.

† Sir F. B. Head’s dispatch, February 9th, 1838.

‡ Daniel J. Stewart, on McLeod’s trial.

§ Evidence of Mr. John Harris, of London, C. W., in McLeod’s trial.

|| Sir F. B. Head’s dispatch, February 9th, 1838.

besides the piece discharged by the sentinel, hardly any resistance was offered. In a couple of minutes the vessel was in possession of the assailing party; and in the fray that took place on deck five or six persons were killed.* There was much hallooing, cursing, clashing of swords, and firing of pistols. Persons on board the boat when she was boarded state that some one ordered the gangway to be guarded; adding, with an oath, "Show the rebels no quarter." It is in evidence that forty or fifty shots were fired. The men on board were almost utterly defenceless, the attacking party met hardly any resistance when they got on board. At this time the light in the companion way was put out to prevent the assailants distinguishing those below. One person, desperately wounded, was taken ashore by orders of Captain Drew.† Captain Drew cut down one man in the fray, disabled another, "and with the flat of his sword, driving three before him, occasionally hastening them with the point, he made them step from the vessel to the wharf."‡ One shot was fired from the American shore on the assailing party. By the orders of Captain Drew, Lieutenant Elmsley and some of the men went on the American shore, and cut the vessel from her moorings, previous to setting fire to her, to prevent the destruction of other property by the spreading of the flames. The lamp was placed in a large basket, used for carrying Indian corn, and the

* Captain Drew's report. One of them was killed by Lieutenant McCormick. "His death was caused," says McCormick, in the evidence in McLeod's trial, "by a blow from me immediately after he had wounded me."

† Sir F. R. Head's dispatch, February 9th, 1838.

‡ Evidence of Mr. Smart Light, of North Oxford, in McLeod's trial.

cross-bars of the windows torn off and placed above the lamp, which set them on fire.* The vessel was then towed out, by the boats, from the wharf, till she was under the influence of the current. She was cut loose by Mr. Edward Zealand, of Hamilton.† If the strength of the current had not been too great,‡ it seems probable that an effort would have been made to take the Caroline across the river to the Canadian shore; for both Colonel McNab and Captain Drew give that as a reason for setting her on fire and sending her over the mighty cataract, above which she was found moored. When she had been towed out about fifteen or twenty rods, the victorious expedition gave three cheers and abandoned her to the force of the current.

When Mr. Wells, the owner of the boat, had managed to escape to the shore, he fancied he was pursued, but soon met instead of the assailants two of his men. "You are hurt," he said to King. "Yes, they have almost cut me to pieces," was the reply. The body of Amos Durfee lay between the inside railroad and the old warehouse. He had been shot in the back of the head, and his brains were scattered around. The pistol must have nearly touched him when it was fired, for his cap was singed with the powder. The ball had gone quite through the head.

Under all the circumstances, the right of the British authorities to destroy the Caroline, even by the inva-

* Evidence of James H. King on McLeod's trial.

† Edward Zealand's evidence in McLeod's trial.

‡ The force of the current was stated on McLeod's trial to be about five and a half knots an hour on the American side, and six knots on the Canadian side of Navy Island. Whatever it may be its force must have been pretty well known before the expedition set out.

sion of American territory, cannot be successfully disputed.* The refugees had been seduced by American citizens into abusing the right of asylum; and they found among these citizens a large number who had joined their standard, and engaged in a war against a nation with whom their own Government was at peace.† The executive government was not armed

* Vattel lays down the principle applicable to the case: "Il est certain que si mon voisin donnait retrait à mes ennemis lorsqu'ils auraient du pire et se trouveraient trop faible pour m'échapper, leur laissant le temps de se refaire, et d'épier l'occasion de tenter une nouvelle irruption sur mes terres, cette conduite, si préjudiciable à ma sûreté et mes intérêts serait incompatible avec la neutralité. Lors donc que mes ennemis battus se retirent chez lui, si la charité ne lui permet pas de refuser passage et sûreté, il doit les faire passer outre le plus tôt possible, et ne point souffrir qu'ils se tiennent au aguets pour m'attaquer de nouveau; autrement il me met en droit de les aller chercher dans ses terres. C'est ce qui arrive aux nations qui ne sont pas en état de faire respecter leur territoire; le théâtre de la guerre s'y établit bientôt; on y marche, on y campe, on s'y bat, comme dans un pays ouvert à tout venants." The Americans had themselves in 1818 asserted and acted upon the principle laid down by Vattel. The Seminole Indians, who inhabited Florida, then a Spanish possession, were in the habit of making incursions upon the neighboring territory of the United States. On the 18th May, the United States forces, under Gen. Jackson, pursued the savage enemy, and in doing so took possession of Pensacola, and Barrancas Fort, in West Florida, though they were at peace with Spain. President Monroe, in his second annual message to Congress, Nov. 17, 1818, said: "The right of self-defence never ceases. It is among the most sacred and alike necessary to nations and individuals; and whether the attack be made by Spain herself or those who abuse her power, its obligation is not the less strong. * * * In pursuing these savages to an imaginary line in the woods, it would have been the height of folly to have suffered that line to protect them. Had that been done, the war would never cease. Even if the territory had been exclusively that of Spain, and her power complete over it, we had a right, by the law of nations, to follow the enemy on it, and to subdue him there." The Senate, however, did not approve of all that was done in this case by the United States forces.

† On this subject Henry Clay said, in the American Senate, on the 5th January, 1838; "If any citizens of these United States choose to renounce their citizenship and enter into the concerns of foreign states, he (Mr. C.) would not dispute their right to do so; but, so long as they remain citizens of this

with legal powers necessary to restrain its own citizens.* But it had not been entirely inactive. On the day of the Yonge St. retreat, and two days after the meeting of sympathizers was held at Buffalo, District Attorney Benton for Northern New York was officially instructed to watch and prosecute all violators of the neutrality laws. At the same time, Mr. Forsyth, Secretary of State, by direction of the President, called the attention of Governor Marcy, of the State of New York, to the contest, and asked his prompt interference to arrest the parties concerned, if any interference of a hostile nature should be made in the state of New York against a foreign power in amity with the United States. Similar letters were, on the same day,

country, they ought not to be allowed to take part in a foreign war with which this country has no concern." And Mr. Webster, in an official letter to Mr. Fox, dated April 24, 1841, gives it as the settled opinion and practice of the Federal Government that neutral states are bound to be strictly neutral; and that it is a manifest and gross impropriety for individuals to engage in the civil conflicts of other states, and thus to be at war while their government is at peace. War and peace are high national relations which can properly be established or changed only by nations themselves."

* Mr. Poinsett, Secretary of War, in instructing General Scott, January 5, 1838, to proceed to the Canadian frontier, to endeavor to preserve the neutrality of American citizens, said:—"The Executive possesses no legal authority to employ the military force to restrain persons within our jurisdiction, and who ought to be under our control, from violating the laws by making incursions into the territory of neighboring and friendly nations, with hostile intent." And on the same day, President Van Buren, by Special Message, called the attention of Congress to this defect in the national legislation; and recommended such a revision of the laws as would "vest in the Executive full power to prevent injuries being inflicted upon neighboring nations by the unauthorized and unlawful acts of citizens of the United States, or of other persons who may be within our jurisdiction and subject to our control." On the 10th of March, 1838, an act was passed for the purpose of more effectually restraining military enterprises, from the United States into the British Provinces.

addressed to the Governors of Michigan and Vermont, within the borders of which latter states some of the Lower Canada insurgents, after the defeat at St. Charles, had taken up their quarters. They had collected at Swanton, Highgate, and other places; and on the 6th December had, with three pieces of cannon, and small arms and ammunition, obtained from citizens of the United States, made a descent upon Canada, been repulsed, and retreated to Vermont. The governors of these states were directed to prosecute without discrimination all persons who had committed a breach of the laws enacted for the preservation of the neutral relations of the United States. Governor Jenison, of Vermont, issued a proclamation enjoining neutrality on its citizens. In New York, Mr. Marcy took the same course. But the destruction of the *Caroline* added to the sympathy for the cause of revolution, in Canada, an almost uncontrollable indignation at the invasion of American territory, which all classes of Americans joined in representing as unwarranted by the law of nations and not justified by the circumstances of the case. The President informed Congress that a demand for reparation would be made; public meetings were held to denounce what was considered as a wanton outrage; the press aided in inflaming the public excitement,* and it was said that, when General Burt had collected from 1,500

* Of the poetic effusions, the following example is from the *Rochester Democrat*:—

“DESTRUCTION OF THE CAROLINE.

“Oh, what were the dreams, as they sunk to rest,
Of that devoted band,

to 2,000 militiamen to guard the frontier of New York State, it was with the greatest difficulty they could be

Who lay, as a babe on its mother's breast,
On the shores of their native land?
Breathed they of fire, or of streaming blood,
Or the thundering Cataract's whelming flood?

"Strong manhood's Godlike form was there,
With his bold and open brow,
And age, with his wearied look of care,
And his floating locks of snow;
And the agile form of the stripling boy,
With his throbbing pulse of hope and joy.

"They dreamed of the happy hours of home—
Of a blessed mother's prayer—
Of the cherished wife in that sacred dome—
Of the lisping prattlers there;
And the stripling dreamed of his young love's smile,
When he left her, bound for the 'fatal isle.'

"Oh, what was that dim, ominous sound,
That struck on the sleeper's ear,
Yet roused him not from his rest profound,
'Till the unsheathed blade was near?—
And it seemed as the air and rocks were riven,
By the slogan of death and the wild shriek given.

'Ah! vain was the strife of the struggling few,
With a well-armed murderous band;
For the gallant bark, with her blood drenched crew,
Is floating from the strand,
And the young boy's *quarter cry* it bore
To the purple wave, with his own heart's gore.

"On—wildly onward—sped the craft,
As she swiftly neared the verge;
And the demon guards of the black gulf laughed,
And chanted a hellish dirge;
And the booming waters roared anew,
A wail for the dead and dying crew.

restrained from going over to Navy Island to join the insurgents and sympathizers collected there. The feeling that an unjustifiable outrage had been committed by British subjects on American territory continued to inflame the population and to influence opinion in Congress.*

“As over the shelving rocks she broke,
And plunged in her turbulent grave,
The slumbering Genius of Freedom woke,
Baptised in Niagara’s wave,
And sounded her warning tocsin far,
From Atlantic’s shore to the polar star.”

“The young boy’s quarter cry” mentioned in the fifth verse, has reference to a monstrous rumor which obtained extensive credence, that Captain Drew had, with his own sword, run a boy through. Some of the witnesses on McLeod’s trial stated that they never saw the boy again; but the newspapers of the day mentioned where he had been seen after his escape.

* On the 13th of February, 1841, Mr. Pickens brought in a report from the Committee of the United States House of Representatives, on Foreign Affairs, on the burning of the *Caroline* and the imprisonment of McLeod; in which the following language was used:

“It is believed that, even in war, a neutral power has the right to trade in contraband articles, subject, of course, to seizure and confiscation, if taken within the jurisdiction of either of the contending parties. What is contraband of war is not always certain. Treaty stipulations frequently include some articles, and exclude others recognised in the law of nations. Trading in contraband articles is no excuse for invading the territory and soil of a neutral and independent power, whose private citizens may choose to run the hazards of such a trade. In this instance, there were two foreign powers engaged in war; but all concerned in the outbreak or excitement within the British jurisdiction, claimed to be British subjects, in resistance of the authorities of Canada, a province of the British empire. Even admitting, then, that the *Caroline* was engaged in contraband trade, yet it was with citizens who claimed to be subjects of the same empire with those who were styled the legitimate officers of the Province. Abstractly speaking, how was a private citizen to decide who were right and who wrong in these local disputes? And which portion of citizens of the same province must our citizens refuse to have any communication with? But the boat was merely used for one day as a ferry boat; and on the night of the day she commenced running, she was

I have an unpublished letter of District Attorney Rogers to Van Rensselaer, written on the day before the *Caroline* was destroyed, in which it was stated:—"The public authorities upon this frontier cannot and will not remain inactive in case our soil is made the theatre of operations for either of the belligerent armies. It is the duty as well as the policy of this Government to maintain a strict neutrality with Great Britain, and no means will be spared on the part of the public authorities to sustain and enforce the laws enacted for that object." The letter concluded by expressing a hope that if Van Rensselaer had any intention of landing his forces on Grand Island, it would be abandoned.*

However justifiable the destruction of the *Caroline* may have been in the eye of international law, it was

seized while moored at the wharf in Schlosser, and burnt. Several men were assassinated; certainly one, who fell dead upon the dock. Now the insinuation of the British Minister, [Fox,] that Schlosser was 'nominally' within the territory of the United States, may well be retorted, as we can with equal truth say that Navy Island was 'nominally' within the 'territory' of the British Government; for at the period to which we allude, the people collected there had as effectually defied the Canada authorities as any portion of our people had disregarded ours. Yet British authority thought proper to pass by Navy Island, then in its 'nominal' territory, and in the plenitude of its power, to cast the ægis of British jurisdiction over American soil. This was truly extending over us that kind guardianship which they had not the ability at that time to extend to a portion of their own territory, and which recommends itself to us, full as much from its assumption as from its love of right or law."

And Mr. Stevenson, the American Minister, in London, took the ground that the forces on Navy Island, commanded by an American citizen, were engaged in a civil war; and that as respects belligerent and neutral rights, civil wars are not distinguishable from other wars.

* Grand Island is an American island, situated a little higher up the Niagara River than Navy Island.

an act of great rashness. A militia colonel, without the least authority from his superiors, orders the invasion of the territory of a nation with whom his government is at peace; and when that nation was using efforts, not very successful it must be confessed, to maintain neutrality in a contest in which they were no way concerned. The British Government assumed the responsibility of the act; and with a degree of haste that was justly censured at the time, conferred the honor of knighthood on Col. McNab before the reclamation of the American Government had been disposed of. The Upper Canada House of Assembly tendered its thanks to the men engaged in the destruction of the *Caroline*, and granted swords to Colonel McNab and Captain Drew.

If the right to destroy the *Caroline* was clear, the necessity and expediency of exercising it are open to doubt. Nine days before the event, when there was only a handful of men on the island, Col. McNab had ordered Captain Drew to "organize such a force of armed vessels and boats for a flotilla," as would protect the landing and transport of a thousand men from the Chippewa shore to Navy Island; and Sir Francis Bond Head states that, after a fortnight's occupation of the island, by the patriots, there were plenty of boats lying idle on the shore, and "everything was in readiness to enable an overwhelming force to land, and with the point of the bayonet clear the island."* The militia are described as having been eager for the

* *The Emigrant.* On the 9th of January, Sir John Colborne, writing to Lord F. Somerset, from Montreal, said: "Not less than five thousand men are assembled under Col. McNab," on the Niagara frontier.

attack ; and several wagons full of athletic negroes are said to have craved the honor of leading the forlorn hope in the anticipated attack.* It would seem from these statements that there was no urgent necessity for destroying the steamer at the American shore, since the Patriots could have been dispersed by other means. It is not necessary to inquire into the correctness of this statement ; it is sufficient that it was made on the authority of the Lieutenant Governor of the day. There were on the island, at that time, less than two hundred men ; but they were inspired with such a desperate determination that far from having provided any boats for their escape, they had taken the pins out of the screws of the scows and burnt the oars, resolved, if attacked, to conquer their assailants or die in the attempt.

“If ‘sons of liberty’ can keep
No resting place but this,
Then here we’ll stand—or wildly leap
Into the dark abyss.” †

The Caroline had only been cut out of the ice on the 28th, and she was destroyed on the night of the only day on which she had run between Schlosser and the island. The Washington authorities, in these ante-telegraph days, could not have been aware that she was carrying articles contraband of war ; though rumor might have wafted them some intelligence of her intended movements, and their officers, as well as those of the State of New York, on the frontier, might

* Sir Francis Bond Head’s *Emigrant*.

† From a poem entitled, “Liberty and Navy Island,” dated January 29, 1837.

have known of what was going on. Sir Francis Bond Head, however, far from complaining of the exertions made by Governor Marcy to preserve the neutrality of citizens of New York, declared his appreciation of them, and had proposed to meet him in Buffalo on the very day on the night of which the *Caroline* was destroyed. If, as I think, these facts prove, that the destruction of the vessel at the United States bank of the river was not a necessity, it was in the last degree inexpedient.

President Van Buren seems to have been sincerely anxious to avoid a war with England; and it required all his address to prevent the *Caroline* massacre from interrupting the friendly relations of the two countries. The demand upon England for "reparation and atonement" was two years and a half undisposed of. In the meantime, Alexander McLeod was arrested on a charge of having murdered Amos Durfee, whose body was left on American territory, at Schlosser, as already described. While the whole question was still open, the British Government demanded his "immediate release." The demand was refused;* and

* In communicating to Mr. Fox, British Minister at Washington, that refusal, Mr. Secretary Forsyth said: "The transaction out of which the question arises, presents the case of a most unjustifiable invasion, in the time of peace, of a portion of the territory of the United States, by a band of armed men from the adjacent territory of Canada, the forcible capture by them within our own waters, and the subsequent destruction of a steamboat, the property of a citizen of the United States, and the murder of one or more American citizens. If arrested at the time, the offenders might unquestionably have been brought to justice by the judicial authorities of the State within whose acknowledged territory these crimes were committed; and their subsequent voluntary entrance within that territory places them in the same situation. The President is not aware of any principle of international law, or indeed of reason or justice, which entitles such offenders to impunity before the legal tribunals, when

McLeod was put upon his trial,* in the Circuit Court of the State of New York, at Utica, in October, 1841. It commenced on the fourth, and lasted eight days. Whether McLeod was guilty or innocent—the jury declared him not guilty—it must be admitted that

coming voluntarily within their independent and undoubted jurisdiction, because they acted in obedience to their superior authorities, or because their acts have become the subject of diplomatic discussion between the two Governments. These methods of redress, the legal prosecution of the offenders, and the application of their Government for satisfaction, are independent of each other, and may be separately and simultaneously pursued. The avowal or justification of the outrage by the British authorities, might be a ground of complaint with the Government of the United States, distinct from the violation of the territory and laws of the State of New York. The application of the Government of the Union to that of Great Britain, for the redress of an authorized outrage of the peace, dignity, and rights of the United States, cannot deprive the State of New York of her undoubted right of vindicating, through the exercise of her judicial power, the property and lives of her citizens."

In the report of Mr. Pickens, already quoted, it was argued that the Federal Government had no power to give up McLeod. "Jurisdiction," it was said, "in State tribunals over criminal cases, and trial by a jury of the venue, are essential points in American jurisprudence; and it is a total misapprehension of the nature of our system to suppose that there is any right in the Federal Executive to arrest the verdict of the one or thwart the jurisdiction of the other. If such a power existed, and were exercised, it would overthrow, and upon a vital point, the separate sovereignty and independence of these States." Mr. Secretary Forsyth also took the ground that the Federal Government had no power to interfere in the matter; and that the decision must rest solely with the State of New York.

* Alexander McLeod was a Scotchman by birth; and was born at the Fens of Carnoustie, about half way between Dundee and Arbroath. His father was from Inverness. Alexander enlisted as a soldier when young; and about the year 1825, emigrated with his parents and the rest of the family to Upper Canada. He and his sister Margaret first kept a store in Kingston. He afterwards moved to Toronto, where he carried on the business of a grocer. In politics, he was at this time strongly opposed to the Family Compact. A few years before the rebellion, he was appointed Deputy Sheriff of the District of Niagara; and about the same time joined the Orange Society. As Deputy Sheriff, it fell to him to execute an order for the extradition of Jesse Happy *alias* Solomon Moseley, a fugitive slave from Kentucky, who, in effecting his escape, had



PORTRAIT OF McLEOD.

many a man has been hanged upon much weaker evidence than that which was produced against him. Three witnesses swore that they saw him get into one of the boats engaged in the expedition; one, that he saw him get out on the return of the boats; two, that they had heard him admit being present; three, that he had killed one man. One of them swore that he admitted that he had killed Durfee. On the part of the defence, an *alibi* was set up: the witnesses brought forward to establish it, being Margaret Morrison, of Bellevue Cottage, near Stanford, mother of a girl who lived with McLeod, but whether they lived as man and wife she could not say; and one other of the girl's relatives. William Press, a tavern-keeper, at Niagara, swore that he took McLeod, a little before dark, in a wagon, from Chippewa to Morrison's house. Besides over a dozen persons who took part in the expedition, and who must have been McLeod's accomplices if he were guilty, swore that he was not there,

carried off one of his master's horses. An attempt was made to rescue the fugitive, in which one Herbert Holmes was killed by the officials, and others wounded. Mr. Mackenzie relates an incident in proof of his courageous disposition. When the latter was Mayor of Toronto, McLeod went from Niagara to that city and took the disease. "I put him into the Cholera Hospital," says Mr. Mackenzie, "where I personally saw his case; he was well attended to, recovered, and returned home; but I did not see that the fear of death alarmed him in the least." In Mackenzie's trial for the Welland Canal libel, McLeod did all he could to correct the fraudulent list of special jurors said to have been made out by Charles Richardson, Clerk of the Peace. It is said, and Mr. Mackenzie believed the report, that McLeod positively refused to hang Moreau, one of the Canadian Patriots convicted of high treason. While Deputy Sheriff, he became deeply involved in debt; and on the death of Sheriff Hamilton, February 19, 1839, he was balked in his expectation of succeeding to the office. He was about forty years of age at the time of the Caroline outrage, and is still living near Toronto.

or that they did not see him and were not aware of his presence.*

The verdict of "not guilty" probably prevented a war between England and the United States. The English view of the matter was that the destruction of the *Caroline* was a public act, performed by persons obeying the orders of their superior authorities; and that no one engaged in it could be held individually accountable. The authorities of the States were probably not very anxious for a conviction; but they had to appease public indignation by the ceremonial of a trial.

The folly of the destruction of the *Caroline*, under the circumstances described, is best proved by the necessity which England was under of finally apologizing for the act. Lord Ashburton, while engaged in the settlement of the north-east boundary question, addressed to Mr. Webster, under date, Washington, July 28, 1842, an apology for the invasion of American territory. "I am instructed," his lordship said, "to assure you that Her Majesty's government consider this [the violation of American territory] a most serious fact, and that far from thinking that an event of this kind should be lightly risked, they would unfeignedly deprecate its existence; looking back to what passed at this distance of time, what is, perhaps, most to be regretted is that some explanation and apology

* Sir Allan McNab; Mr. John Harris, of London, C. W.; Edward Zealand, Hamilton, C. W.; W. S. Light, North Oxford; Robert Armour, Cobourg; John Gordon, Captain of the Steamer *Britannia*; Christopher Beer, of Chippewa; H. R. O'Rielly, of Hamilton; Shepherd McCormick of London, C. W.; Frederick Cleverly, London, C. W.; Thomas Hector, of Toronto; Neil McGregor, of Chippewa; J. P. Battersby, of Ancaster.

for this occurrence was not immediately made." This apology was accepted in the conciliatory spirit which marked Lord Ashburton's letter, and the President consented to "make this subject, as a complaint of violation of territory, the topic of no further discussion between the two governments."

The British steamboat, *Sir Robert Peel*, was burnt in retaliation, on the 29th of May, 1838, while taking in wood at Well's Island, three miles from French Creek.

Mrs. Mackenzie was the only female who spent any length of time on Navy Island. She arrived there a few hours before the destruction of the *Caroline*, and remained nearly a fortnight with her husband, making flannel cartridge-bags, and inspiring with courage, by her entire freedom from fear, all with whom she conversed. At the end of about a fortnight, ill-health obliged her to leave. Mr. Mackenzie accompanied her to the house of Captain Appleby, Buffalo, and while on his way he was arrested, in the railway car, by the United States Marshal for a breach of the neutrality laws. He entered into recognizance in \$5000 for his appearance, and returned to the island the next morning, where he remained till Gen. Van Rensselaer announced his intention to evacuate it, with the force under his command, on the 13th of January. There was much excitement when he was arrested. A Mr. Burton, who was suspected of having informed against him, was greeted with hisses and groans, and handed round to be gazed upon by the crowd as a monstrosity. Three gentlemen immediately stepped forward and entered into recognizances for the amount required.

The Buffalo Committee of thirteen seems to have had more power than the Provisional Government, for the question of evacuating the island was decided by it. At this time, Mr. Mackenzie seems to have had very little influence with Van Rensselaer, who was vested with the entire military command. It is matter of surprise that the island, which was intended as a *point d'appui* from which to take a liberating army into Western Canada, was permitted to be occupied by insurgents, and American citizens who sympathised with them, for a period of over a month without being assaulted by the vastly superior force on the main land, who were spending their time in an inglorious and inactive campaign.

On the evacuation of the island, another difficulty with the States' authorities was very near occurring. Captain Drew ordered two schooners to be placed in the middle of the stream, between Navy Island and the American shore, to watch the steamboat Barcelona, said to be taking the islanders across, to bring her to in case she attempted to pass, and if she should succeed in passing to follow her until she was captured, or at least till it was seen on what part of the shore she landed. But whether from a misapprehension of Captain Drew's orders—which were changed two or three times in one day, has been disputed—fortunately no collision occurred.

CHAPTER VIII.

Dispersion of Dr. Duncombe's Insurgent Force—Van Rensselaer sends Brigadier General Sutherland to the West—The Patriot Army of the North-West—Rival Generals—The Steamer McComb and the Schooner Anne engaged to carry Patriotic Troops and Munitions of War—General Brady of the United States Army seizes the Steamer McComb—The Steamer Brady which takes her place is also Seized—The Governor of Michigan gives General Handy, in Command of the Patriot Army of the North-West, a Friendly Warning of the Approach of United States Troops—General Handy's Plan of attacking Fort Malden—Who shall Command?—Theller sails the Schooner round the Island of Bois Blanc, and Fires into Amherstburg without Demanding it to Surrender—The Act is denounced by other Patriots as Piracy—Sutherland takes possession of Bois Blanc, and issues a Proclamation to the "Citizens of Upper Canada"—Retreats to Sugar Island against the Remonstrances of the Men—The Michigan Governor's tenderness towards the Patriots—Handy resents Theller's Foray on Amherstburg, and sends men to arrest Theller and Sutherland—Handy's Secretary burns a Report he was sent to get Printed—Of the two Rival Generals, the Men Elect Handy—Sutherland goes to Detroit and tries to raise Men independently of Handy—How the Governor of Michigan helps Handy out of a Difficulty—Plot for transferring the Arms of the Michigan Militia to the Patriots—The latter were to be in the Pay of the State while preparing for an Attack upon Malden—Sutherland defeats the Scheme by seizing the Arms, which are Discovered and Restored—General McLeod and Colonel Vreeland arrive on the Western Frontier—McLeod takes possession of Fighting Island, being disappointed in the Receipt of Arms is driven off by British Troops—Mackenzie warned against Assassins—Mackenzie and Van Rensselaer Disagree—Projected Assault upon Kingston—Van Rensselaer goes to Hickory Island with a Large Force, but Retreats without making an attempt to go to the Main Land—Apologizes for Charges against Mackenzie—General McLeod sends a Force to Point au Pelé Island, whence they are driven by British Troops—General Sutherland taken Prisoner.

WHEN the patriots took possession of Navy Island, they expected soon to be able to cross over to the

main land and join Dr. Duncombe's forces in the West. The doctor, who had been in constant correspondence with the Lower Canada patriots, had under his command between three and four hundred men; but a large number of them were without arms. They were assembled at Brantford, whither Colonel McNab, with a detachment of about three hundred and sixty men, repaired. On his approach, Dr. Duncombe retreated to a place called Scotland. Colonel McNab was reinforced at Brantford by one hundred and fifty volunteers and one hundred Indians, under command of Captain Kerr. When a plan of attacking the insurgents simultaneously at three points had been agreed upon, and was to have been executed next morning, Dr. Duncombe retreated. He told the men that Mackenzie had been defeated near Toronto, and they had better disperse. In the meantime, Colonel McNab, learning of the anticipated retreat, dispatched messengers to Simcoe, Woodstock, and London, requesting all the volunteers that could be mustered to march down and intercept the rebels. On the 14th of December, while at Scotland, his force was increased by about one thousand additional volunteers. Hundreds more had been expected to join Duncombe, from the neighborhood of St. Thomas and other places in the west. Here Colonel McNab seized all Duncombe's papers, as well as those of Eliakim Malcolm, and took several prisoners, whom he sent under an escort to Hamilton. In spite of the retreat of Duncombe, and the dispersion of his men, Colonel McNab sent to the Lieutenant Governor a strong recommendation to sanction the raising of volunteer companies of

one hundred and fifty men each. While at Scotland, deputations of insurgents visited him offering to surrender their arms, take the oath of allegiance, and, if necessary, form part of his force. In other places large numbers of undetected rebels, when they found the tide turning against them, joined the loyal forces; so that the number of volunteers was no proof of the popularity of the government. At a place called Sodom, township of Norwich, many of Duncombe's men surrendered themselves to Colonel McNab, who, with a degree of humanity that reflects credit upon him, after receiving what arms they had, permitted them to return to their homes, on condition that they should again surrender themselves, should His Excellency not extend the Royal clemency to them. Some of the ring-leaders were sent to London, under an escort, for trial, where Joshua Guilam Doan, for whose apprehension a reward had been offered, was executed, on the 6th of February, 1839.

On the 19th of December, 1837, Colonel McNab mentions a report that considerable disaffection prevailed in the western district, particularly in the neighborhood of Sandwich. But the insurrection was put down in the western part of the Province without a shot being fired.

In the "Navy Island memoranda," I find the original order of Van Rensselaer to General Sutherland to set out to Detroit to make preparations for making a descent upon Canada.* But when he reached the

* "HEADQUARTERS, NAVY ISLAND, }
December 28, 1837. "

"Brigadier General Sutherland will repair with all dispatch to Detroit and its vicinity, and promote every arrangement for making a descent upon Canada, in favor of the Patriots, as he in his judgment may deem most advis-

Western frontier, he was destined to encounter a rival, in the person of Henry S. Handy, of Illinois. In Michigan, what was called the Patriot army of the North West had been organized, and Henry S. Handy, of Illinois, had been appointed Commander-in-chief. His command extended over the whole of Western Canada. The other officers were James M. Wilson, Major General; E. J. Roberts, Brigadier General of the first Brigade; Dr. Theller, Brigadier General, to command the first Brigade of French and Irish troops to be raised in Canada. A number of colonels were also appointed and sworn in. The staff was then made out and the organization commenced. The council of war proceeded to collect men and materials of war.* Theatres and public houses were made depots for arms. When things had gone on smoothly for some time, the friendly Governor of Michigan, about the 1st of January, quietly intimated to Handy and General Roberts, that he should be obliged to disperse the Patriot forces, and that they must move to some other place. The council then placed the troops and munitions under the control of General Handy, by whom a contract was made for the steamboat McComb, and the schooner Anne was

able, after consulting with the Canadian and American friends of the cause in that quarter.

“R. V. R., &c., &c., &c.”

* I take this relation from General Handy's elaborate manuscript reports. The council of war here referred to must have been that formed in Michigan by the exertions of M. Dufort; and in deference to the wishes Mr. Bidwell expressed in Toronto in the previous November, some of the leading men of Michigan had given all the aid in their power to this scheme of co-operation with the Patriots.

also obtained for the purpose of effecting their removal to the point of intended operations. On the night of the 5th of January, the arms, munitions, and provisions, were put on board the schooner, and she was taken down the river a short distance and moored. Her sails were on another vessel; and without the tow of a steamboat she was helpless. It was intended to place the troops on the steamer McComb, and then use her to tow the schooner; but before this could be done, the Brady Guards with a few United States regulars, under General Brady, seized the steamer and placed a guard over her. A contract was then made for the steamer Brady to take her place; but she also was seized. General Handy then ordered General Wilson to take the troops in squads, during the night, to Gibraltar, on American Island at the mouth of the Detroit River opposite Fort Malden, to man the yawl-boats with six oarsmen each and thus tow the schooner down the river. When they arrived at River Rouge a sail was obtained for the schooner, and she started under command of Colonel Davis for Gibraltar. On the way she encountered the steamer United States, with sixty men on board; but on seeing the three pieces of ordnance on the deck of the Anne, the steamer made off for the Canada shore. Colonel Davis was probably alarmed by the sight of this steamer; for, instead of continuing down the river, he returned after going ten miles below Detroit. General Handy, learning this disobedience of his orders, sent instructions to General Roberts to take the command. On the 6th of January, Handy sent an order to Colonel Davis of Mount Clements, to move his two

companies of riflemen from the mouth of the Clinton River to Peach Island, six miles above Detroit, where next morning the general was to join him with recruits. That day, General Handy received an intimation from the Governor of Michigan that he and the Brady Guards would probably be at Gibraltar on the 18th, from which point he should be obliged to disperse the troops. Gen. Handy then sent an order to Brigadier General Roberts to put all the arms and munitions on board the schooner *Anne*, and to put the troops on board the sloops, scows, yawl-boats, and canoes, in the morning before the Governor would arrive; to land the troops on Bois Blanc Island, and to moor the schooner *Anne* in the small bay, near the head of the island and directly opposite the fort; to discharge from the schooner every thing except three cannon, and thirty men under Colonel Davis to man them. A temporary fortification was to be thrown up; on the evening of the 8th the schooner was to be made ready for action, and on the morning of the 9th the tri-colored flag was to be raised and the surrender of the fort demanded. In case of refusal a brisk cannonade was to be opened; the troops, with a heavy piece of ordnance, landed, and the fort carried by storm. At the same time, General Handy, with Colonel Davis' troops, was to take possession of the public stores at Sandwich and Windsor, and march thence to Malden and take command.

On the morning of the 7th, General Handy started from Mount Clements to meet Col. Davis; and in the afternoon of the next day, an express from General Roberts reached him, with the intelligence that Gen-

eral Sutherland had arrived from Cleveland with about two hundred troops; and that, in virtue of the instructions he had received from General Van Rensselaer, he claimed the command. General Handy had no idea of being balked in his ambition to lead the troops; and he found that it was necessary for him to hasten, with all possible speed, to Gibraltar, where General Theller, in violation of the orders and appointment he had received from the Council of War, had taken up the cudgels against General Roberts, and done all in his power to place General Sutherland at the head of the command. The Ohio troops had no knowledge of the organization of the North Western army, and thinking the order of General Van Rensselaer ought to be respected, a serious difficulty as to who should have the command arose. A compromise was proposed: "That if," says General Handy, "Sutherland would implicitly obey the orders of the Commander-in-chief sent to General Roberts, the command should be given to him until by express I could reach the island." To this proposition General Roberts assented; and the command of the schooner was given by General Sutherland to General Theller. But the expectation of landing on Bois Blanc Island was disappointed. "Either by adverse winds or through disobedience of orders," says General Handy, "the landing was made on Sugar Island." General Theller sailed the schooner round the foot of Bois Blanc, and when passing the fort she was hailed by the sentinel, who, receiving no answer, fired into her. General Theller, so Handy was informed, when opposite Amherstburg, fired a nine pounder into the

town, instead of aiming at the fort, contrary to all usages of war, as he had not even demanded the surrender of the place. After this exploit General Theller returned and moored the schooner near the camp on Sugar Island, for the night. General Roberts of the Patriot army denounced the firing upon the town, without a demand for surrender being previously made, as a piratical act; and he recommended General Handy to arrest Generals Sutherland and Theller for disobedience of orders.

On the 9th, General Sutherland called for sixty volunteers, for whom arms were ready, to proceed with him to Bois Blanc Island. Boats and craft were got ready to make a landing. General Sutherland then ordered Colonels Dodge, Davis, and Brophy, with eighteen others, on board the schooner *Anne*, which then sailed round to the foot of the island, and moored in a small basin near the head of the island, opposite Fort Malden. General Sutherland, with his sixty volunteers, landed on the island near the light-house, where he hoisted the tri-colored flag and issued his proclamation to the citizens of Upper Canada.

* "PROCLAMATION TO THE PATRIOTIC CITIZENS OF UPPER CANADA.—You are called upon by the voice of your bleeding country to join the Patriot forces, and free your land from tyranny. Hordes of worthless parasites of the British Crown are quartered upon you to devour your substance—to outrage your rights—to let loose upon your defenceless wives and daughters a brutal soldiery.

"Rally, then, around the standard of Liberty, and victory and a glorious future of independence will be yours.

"THOMAS J. SUTHERLAND, *Brigadier General*,
"Commanding Second Division Patriot Army, U. C.

"HEADQUARTERS, SECOND DIVISION, }
Bois Blanc, U. C., Jan., 9, 1838."

The schooner *Anne*, only about half rigged, having but one small sail, was drifted towards the main shore, where she was beached in three feet of water.* A brisk fire—so Handy reports—was now opened upon her by the royalist troops on shore. General Sutherland ordered the yawl-boat to row him to the foot of the island, where he discovered that the schooner had been boarded by the British troops. Returning to his men, he, without landing, ordered them to retreat immediately to Sugar Island. The men entreated him to permit them to go with their boats to the rescue of the schooner, but he positively refused to grant their request; and, with apparent alarm, cried out, “Away to Sugar Island! Fly, fly, fly, all is lost!”† He then hurried to the main body of the troops on Sugar Island, whence the destruction of the schooner could be seen. Though it is not certain, General Theller is believed to have followed the instructions of General Sutherland in taking the schooner where he did. “I have no doubt,” says General Handy, in his report, “that General Theller has the Patriot cause at heart, but for want of cool discretion, and perhaps that skill which a man of his rank should have, he may have

* Colonel Bradley states there was only one sailor on board, and that he was shot at the helm, after which the vessel became unmanageable. The schooner *Anne* appears, from a statement of General Handy, to have been given to the Patriots by Captain Gillet, who assisted them in other ways.

† Colonel Bradley afterwards denounced Sutherland as a coward, and said that if a landing had been effected Amherstburg would easily have been taken. It was also stated that three hundred or four hundred Canadians would have joined him as soon as he had landed. These added to those under Sutherland's command would, it was contended, have been more than a match for any resisting force they would have met. By this means a triumphant entrance into the western part of Canada had been expected.

committed an error; but as to General Sutherland, his course of conduct, after that period—his entire recklessness, gross violation of good faith, together with the fact (as reported to me) of his being closeted in a room in Detroit with Colonel Prince, for some hours, and his immediate departure from Gibraltar, there leaving his side-arms, and starting for Point au Pelé on foot, travelling on the Canadian side, meeting Colonel Prince and there suffering Colonel Prince to take himself and his aid with his single arm—gives me good ground to believe that he was both a traitor and a coward.”

The Governor of Michigan seems to have used a great deal of gentleness in the performance of his duty of dispersing the patriots and sympathizers. On the morning of the 8th, he, with the Brady Guards and a number of United States troops, fell in with General Handy at Gibraltar. In an interview, which lasted only a few minutes, the Governor requested Handy to seek other quarters, as he had come down to disperse the Patriots, none of whom were then at that point.

On the afternoon of the 9th, General Handy, acting on the suggestion of General Roberts, dispatched two persons in a canoe to arrest Generals Sutherland and Theller on Sugar Island, for having committed a piratical act, in violation of orders; but, in consequence of the roughness of the river, they had to land on Grosse Isle. The messengers were Colonel Chamberlain and Colonel Wilkins.* The latter was the

* While sentencing Colonel Vreeland, in the summer of 1838, for taking part with the Patriots, Judge Wilkins said :—

“The Constitution and Laws of your country give ample freedom of opinion

judge before whom General Theller was tried for a breach of those neutrality laws in which the accused had the judge for an accomplice! Handy dispatched Mr. Lawton, his secretary, to Detroit with General Roberts's report of what had occurred; but the secretary was so much alarmed that he burnt the report instead of getting it printed. In consequence of the rumors that got afloat, the American public lost all confidence in Generals Handy and Roberts.

About noon on the 10th, the steamboat Erie arrived at Gibraltar with Handy's Adjutant General, Paymaster, Commissary, and Quartermaster, with some stores. General Roberts, Colonel Mackenzie, Major Fryer, and some others, started in company with General Handy for Sugar Island. General Sutherland, on being introduced to General Handy, proffered him the command, which the latter refused to accept. He gave as reasons for this refusal that the troops had no sufficient supplies of arms, ammunition, blankets, or camp equipage; that the United States authorities were making great efforts to put down the Patriots; that the confidence of the public had been lost by the failure of the first attempt to strike a blow in the West for the liberation of Canada, that, until the orders he

and of speech to every citizen. We all can sympathize with the suffering friends of liberty every where, and there is and can be no restraint imposed upon the utterance of our opinions. But beyond this, until our common country constitutionally calls us to the field, we can do and ought to do nothing in our own jurisdiction. The flag of freedom may be planted in the Canadas, and we all may pray for its triumph over what we conceive to be oppression and tyranny; nay, we might join it there; all this can be done with impunity, but the law prohibits us from organizing a hostile expedition in our own country, with the intent of invading the possessions of peaceful powers."

had given had been disobeyed—though the truth was, Sutherland was just as much the commander-in-chief as he was—there was not a piece of ordnance west of Toronto in possession of the British troops, but that the arms and ammunition which had fallen into the hands of the loyalists, when they captured the schooner *Anne*, would be sufficient for a winter's campaign for a thousand men.* General Sutherland then proposed to leave it to the troops to decide which of the two should be their commander; and after both he and Handy had addressed them, the seven hundred men, with two exceptions, voted for Handy.

General Handy then ordered General Roberts to place a guard on the steamer, till he could learn the situation of the arms and ammunition; his intention being, if he could raise sufficient for one hundred and fifty men, to make an immediate descent on Fort Malden. On examination he found that there were not over sixty firearms on the island fit for use. The steamboat then returned to Detroit with General Sutherland. This discarded general—if we accept Handy's account of the affair—was very far from keeping the obligation into which he entered when he appealed to the troops to elect their general. Sutherland at once called a meeting, in Detroit, for the purpose of procuring volunteers. He got into difficulty. For pub-

* Colonel Radcliffe, of the Canadian militia, tells a different story:—"He found on board," he says, "twenty-one persons; one killed, eight wounded, twelve prisoners, three pieces of cannon, not very useful, about two hundred stand of arms, buff cross-belts, and ammunition, but of this a small supply." The Canadian militia, in boarding the vessel, waded up to their arms. Captain Ironside was one of those who boarded the schooner; her flag was taken by him.

lishing his proclamation,* in the United States, he was arrested and held to bail. General Handy remained several days on the island drilling the troops, and in expectation of the arrival of arms, ammunition, and provisions, from Detroit. But no supplies arrived, and the accumulation of ice had cut off all the ordinary means of communication for weeks. The ice was now descending the river in large quantities; and unless the men made their escape, they were very likely soon to find themselves without provisions and unable to get away. In this condition of things, General Handy called on the friendly Governor of Michigan for succor. He sent an express to him, desiring him to go to Sugar Island with a steamboat, in company with no other person than General Brown, for the purpose of dispersing his—General Handy's—forces. The Governor consented; and next evening he and General Brown met Handy at Gibraltar, whence they proceeded in the steamer Erie to Sugar

*“PROCLAMATION TO THE DELUDED SUPPORTERS OF BRITISH TYRANNY IN UPPER CANADA.—You are required to lay down your arms, and return quietly to your homes. The Patriot army of Upper Canada desire not bloodshed. We fight only for liberty, and personal and public safety.

“Your persons and property shall be protected, all your private rights preserved to you, your homes secured, your possessions untouched, on condition that you yield up your weapons and return to your accustomed occupations.

“You are now enjoying a moiety of liberty vouchsafed to you from motives of caprice or interest on the part of your rulers. We will secure to you all the blessings of freedom by a permanent and honorable tenure.

“Avoid then the horrors of war. Enrage not soldiers already exasperated by oppression. Save yourselves from confiscation. Cease resistance, and all will be well with you.

“THOMAS J. SUTHERLAND, *Brigadier General*,

“Commanding Second Division, Patriotic Army, U. C.

“HEADQUARTERS, SECOND DIVISION, }
Bois Blanc, U. C. Jan. 10, 1838.” }

Island. General Roberts, who had the troops in a line on the bank, amidst their camp fires, received them with a salute. The Governor and General Brown visited General Handy's quarters; after which the arms and ammunition were taken on board, and the troops escorted the Governor and General Brown to the river bank. One boat with the troops landed at Gibraltar about one o'clock in the morning. The Governor took from General Roberts a receipt for the arms; after which the boat left with the Governor and General Brown for Detroit.

But the idea of renewing an attack on Fort Malden was not given up. The men were taken to some shanties, that had been used by canal laborers, about four miles from Gibraltar, where they were drilled without arms for some ten days. General Handy was waiting in expectation of succor arriving; but the vigilance of the United States Marshal and the troops under General Brady stood in the way of the execution of any arrangement for that purpose. The Governor, "for reasons which," says Handy, "we will not require," called out six hundred of the militia to enforce the neutrality of the United States. Three hundred of them had the City Hall of Detroit for their headquarters. An extraordinary plot, in which the militia was implicated, was formed. On the night they received their arms they stacked them in the outer porch of the City Hall, for the purpose of having them taken for the use of Handy's men, who were to become volunteers and have their services paid for by the State while they got ready to make an attack on Fort Malden! But the rival general, Sutherland, ignorant of

this extraordinary arrangement, arrived in Detroit from Pontiac, on the second night of the occupation by the militia of the City Hall, seized the arms and secreted them. But they were retaken next day. "This course of conduct," says Handy, "highly exasperated the Governor"—who was favorable to the Patriot movements—and the citizens; and from that time General Brady refused to trust the militia with arms. "Thus," says Handy, in his manuscript report from which this statement is taken, "was the third and last arrangement to carry out the campaign broken up either by treachery or ignorance."

The United States Marshal got out sixty writs for the arrest of Handy's officers; and that functionary called on Generals Roberts and Handy, and informed them that, if they would disperse the men, the writs would be returned unserved. Next day the men were assembled at Gibraltar; when General Handy informed them that all prospects of carrying out the campaign were at an end, and they unanimously resolved to disband. But at the same time, they "took a solemn obligation" to hold themselves ready for the Patriot service; and that they would again assemble whenever Handy should require them to do so.

General Handy admits, in an unpublished letter, that "the Executive and many worthy officers of the State [of Michigan] and United States have been more or less concerned in our exertions to sustain the Canadian standard; and he predicts that they will assuredly hereafter do more. This letter is without date, but the accompanying documents prove it to have been written near the end of May,

1839. These facts have a significance which time has done nothing to impair. I have it from more than one source, though I cannot vouch for the accuracy of the statement, that, if Toronto had fallen, some of the principal men in the United States army would have resigned their commissions, and entered the Patriot service.

Colonel Vreeland and General McLeod* arrived on the Western frontier, soon after the time of the evacuation of Navy Island, with a brigade to join the army of the North-west. Vreeland reported himself Commander of the brigade; but he was in fact, Handy says, Colonel of ordnance and Inspector of commissariat.† Between him and McLeod there was no good feeling. The latter denounced him in his official reports to Van Rensselaer as a "Judas" and a "traitor." Under a promise from Vreeland that he would supply them with arms, including seven or eight pieces of artillery, and plenty of ammunition, a Patriot force crossed over, on a cold night in February, to Fighting Island, when they found themselves without other means of defence than forty-three firelocks which they had taken with them, and some of which were useless. The truth is, however, that General Scott had seized the arms on the night previous. On the 25th of Fe-

* Donald McLeod was born at Fort Augustus, Invernesshire, Scotland. His father was a common soldier, and he himself became a sergeant in the British army. After his discharge he taught school at Brockville, Upper Canada. On the breaking out of the rebellion, he became a refugee in the United States, and attracted thither a good many Canadians. While there he was very active in the service of the Patriots. After it was all over, he got office in Canada, from Dr. Rolph, and, I think, now enjoys some sort of retiring allowance.

† I find from the original minutes a meeting at which he was appointed, held at Canneaut, January 29, 1838, that Vreeland was Brigade Inspector.

bruary they encountered a force of British Regulars, stated by McLeod to have been five hundred in number. Five of the Patriots were wounded, and McLeod gives it as a rumor that the British troops lost five killed and fifteen wounded.

The refugees were frequently in danger from secret enemies or private assassins. On the 21st of January, 1838, Van Rensselaer wrote from Buffalo to Mackenzie, who was in Rochester, to warn him that there were desperadoes in the former city whose object was to assassinate him.

Soon after they left Navy Island, Mackenzie and Van Rensselaer found it impossible to continue work together. In the month of February, an expedition was planned for the purpose of making a descent upon Kingston. Van Rensselaer claims to have planned it, and though this seems to be true, there is reason to believe that before this time he had agreed not to interfere further with the affairs of Canada.* However this may be, he and Mackenzie were playing at cross purposes, and the latter came to the resolution to have nothing to do with the expedition, if it was to be directed by Van Rensselaer. "I cannot," said Mackenzie, in a letter to a friend, "sail in a boat to be piloted as he thinks fit." While Van Rensselaer sought the control of the expedition got up at French Creek to make a descent upon Kingston, Mackenzie was most anxious that he should not have it. On Mackenzie's part

* On the 10th of February, 1838, Captain Graham wrote to Mackenzie that Van Rensselaer had passed through Rochester on the previous night with the intention of "getting up another Navy Island explosion on the St. Lawrence," and this seems to be the first Mackenzie heard of it.

this desire arose from the utter unfitness of Van Rensselaer, as proved by his conduct on Navy Island, for such a command. Mackenzie was no military man, and desired no command for himself, but when he found that it was to be vested in Van Rensselaer he resigned all connection with the movement.

It had been arranged, by correspondence carried on by Mackenzie, that a rising should take place in Canada, when the expedition crossed. Fort Henry was garrisoned by civilians; a person in the fort had agreed to spike the guns, on the approach of the Patriots, and at a concerted signal to throw open the gates for their admittance. The intended assault became known in Kingston, and sixteen hundred men were placed under arms with a view of defending the place. At Ganonoque two companies of Regulars had been stationed, in addition to the local force. Near the end of February, Van Rensselaer crossed from French Creek, a village situated on the American side of the St. Lawrence, a short distance below Kingston, to Hickory Island, about two miles from Ganonoque, with a force that has been variously stated at from fifteen to twenty-five hundred men. Van Rensselaer, while here, kept his bed, in such a state of intoxication that he could not give an intelligent answer to any question put to him. The men, disgusted or alarmed, began to move off in squads, and when all chance of success had been lost, a council of war was held, and it was determined to retreat. The morning after the island was evacuated, Van Rensselaer reports that the loyalists were upon it two hundred strong.

Van Rensselaer published a letter, dated Albany,

March 29, 1838, in which he blames Mr. Mackenzie for having interfered with his plans, by way, it would seem, of accounting for his own failure. That letter contained accusations against Mr. Mackenzie which Van Rensselaer himself afterwards admitted to be unjust. In an unpublished letter addressed to Mr. McMahon, and dated Albany, February 24, 1840, he says: "Since I have had time for reflection, for arriving at correct information, and for weighing dispassionately circumstances which led me to an unjust conclusion, while penning my statement, although I am yet of opinion that he has committed errors—and who has not?—I am bound as a man of honor to admit that all my charges, whether expressed or implied, against his moral integrity or honesty of purpose, are, as far as my present knowledge and information extend, incorrect." After which confession he exclaims, "I am mightily relieved."

Soon after this, Gen. McLeod dispatched Col. Seward with about four hundred men to Point au Pelé Island, some forty miles south east of Amherstburg. On the 4th of March, McLeod was on the point of joining them, when he received a dispatch from Col. Bradley, informing him that they had been defeated, with a loss of fifteen or twenty missing, and retreated to the American shore. "The loss of the enemy," says McLeod, in an unpublished letter, "is fifty or sixty, and a great number wounded." The loyalist troops were supported by cavalry and artillery, and one of the Patriot colonels attributes their retreat principally to want of artillery. The British troops were under Colonel Maitland, and consisted of five companies of Regu-

lars, with about two hundred militia and Indians. Nine prisoners were taken by the British, among whom was General Sutherland. He was not taken on the island, and his trial was afterwards declared illegal by the British Government and his release ordered. He was, however, kept in prison for a long time.

From this western frontier a combination of great force, extending over the two Canadas, was soon to be made, and but for the occurrence of an accident, it is impossible to say what the result might not have been.

CHAPTER IX.

Mr. Mackenzie's Movements—He Commences the Publication of *Mackenzie's Gazette*, in New York—Is joined by his Family—Canadian Relief Association—Treason Legislation—Execution of Lount and Matthews—Prisoners escape from Fort Henry—Monster Conspiracy for Revolutionizing Canada, and how it was Frustrated—General Handy Superseded by General Bierce—The Short Hills Expedition.

WHILE the abortive expeditions of Bois Blanc and Point au Pelé were in progress, Mr. Mackenzie was sounding the public feeling in other places. He visited some of the Patriot leaders of Lower Canada, at Plattsburg, soon after leaving Navy Island, and went to New York, Philadelphia, and other places.

When the question of evacuating Navy Island was before the Buffalo committee of thirteen,* Mr. Mackenzie had become impressed with what he conceived to be the necessity of establishing a public journal to express the views of the Patriots in Canada, and their friends in the United States. The project was finally carried out by himself. On the 17th of April, the prospectus of *Mackenzie's Gazette* was published, and the first number of the paper made its appearance, on the 12th of May, in New York, and was continued till the close of 1840. During the greater part

* On this committee were Dr. Johnson, a former Mayor of Buffalo, Mr. Seymour, Master in Chancery, Mr. Macy, Mr. Wilkinson, and other local celebrities.

of this time, the paper was published in Rochester, a frontier city on the Genesee River. To establish a newspaper, under the circumstances, appealing chiefly to the public interest on a single question, must have been up-hill work. On the 17th July, 1838, the publisher complained, that of the subscribers to the *Gazette*, about one-fifth had paid "from one dollar to three each," and the remaining four-fifths had paid nothing. We do not, however, find many subsequent complaints of this nature, and the commercial success of the venture was probably quite as good as could have been expected.

In May, Mr. Mackenzie was joined by his family, in New York; all of whom, except Mrs. Mackenzie, had till now remained in Canada. There had necessarily been but little intercommunication between them, and that had taken place indirectly and for the most part through friends passing between Canada and the States.

In March, steps were taken to organize the Canadian refugees. At a meeting of some of these persons, held at Lockport, State of New York, on the 19th of March, 1838, a committee was formed to ascertain the numbers, location, and condition of the Canadian refugees in the States, and to draw up articles of association by "means of which their sufferings may be mitigated and a redress of their grievances obtained," and—such was the latitude given—"to adopt such other measures as, in their discretion, may best conduce to their welfare."* This organiza-

* The committee consisted of Dr. A. McKenzie, Messrs. George H. Clark, Samuel Chandler, Michael Marcellus Mills, Dr. J. T. Willson, Silas Fletcher,

tion was called the "Canadian Refugee Relief Association." It was resolved to send agents of the association through the country, and the formation of branch unions was part of the plan. Dr. McKenzie, formerly of Hamilton, was President of the Association, and all correspondence was ordered to be directed to him at Lockport. The subject of this biography was not present at the meeting, for I find the circular of the association addressed to him by Dr. McKenzie. It appears, from a letter written by Dr. McKenzie, on the fly-sheet of this circular, that General McLeod was one who was to be entrusted with the work of general organization. He had just come from the West, was "not discouraged," and was on the point of starting for the River St. Lawrence under instructions of the general committee. Dr. McKenzie sighed for the advice of William L. Mackenzie, and deplored the "ignorance or want of action," which he was obliged to witness in reference to the affairs of Canada. This association proceeded to the execution of schemes in which W. L. Mackenzie took no part, and in which he was in no way concerned, either by advising or otherwise. It will hereafter be seen that several of the members of this committee were personally engaged in the ill-advised Short Hills expedition; and, at least, one of them appears to have been concerned in the destruction of the *Sir Robert Peel*, in which twelve are said to have been engaged.

In the session of the Canadian Legislature for 1837-8, several bills were introduced relating to per-

Dr. Charles Duncombe, William L. Mackenzie, General D. McLeod, William H. Doyle, James Marshalls, Jacob Rymal, and Nelson Gorham.

sons charged with high treason and treasonable practices. By an Act passed on the 12th of January, judges were forbidden to bail persons under such charges, without an order from the Lieutenant Governor, and providing that no writ of *Habeas Corpus* granted in their behalf should be made returnable in less than thirty days; and all applications for such writs were required to be reported to the Lieutenant Governor. Another Act was passed providing that if any subjects of Her Majesty should, in company with subjects or citizens of foreign states, carry on warlike expeditions within the Province they should be liable to be tried and punished by court-martial; and that citizens or subjects of foreign countries so offending should be tried either before the civil tribunals or courts-martial. A third Act was passed providing that trials for these crimes might be held by commission out of the District in which they were committed. It was not till the next session, held in the course of the year 1838, that provision was made for the more speedy attainder of persons indicted for high treason. In January, 1840, the House of Assembly, at the instance of Mr. Edward Thompson, the successor of Mr. Mackenzie in the representation of East York, addressed the Lieutenant Governor to cause immediate steps to be taken to confiscate the property of persons who had been convicted of treason since December, 1837. But penalties of forfeiture, were, I believe, never enforced in respect to the property of persons attainted of treason.

In the spring of 1838, executions for high treason commenced in Canada. On the 12th of April, 1838,

Samuel Lount and Peter Matthews, the first of the victims, were executed at Toronto. Lord Glenelg, hearing that there was a disposition, on the part of the local officials in Canada, to treat with undue severity persons who had been concerned in the revolt, remonstrated against such a course being pursued.* But Sir George Arthur, who, like his predecessor in the Lieutenant Governorship of Upper Canada, had fallen in with the views of the Family Compact and imbibed some of their violent political passions, failed to carry out his instructions to use his influence to prevent the adoption of extreme measures. The Executive Council determined to interpose their harsh decision to prevent the possibility of the Royal

* In a despatch dated Downing Street, March 14, 1838, addressed to Sir George Arthur, Lieutenant Governor of Upper Canada, in these terms:

"Sir, representations have reached this department from various quarters that during the present session of the Legislature of Upper Canada, measures of unusual severity and of extensive application have been proposed against those who may have been in any way implicated in the late insurrection in the Province. As these representations have not reached me in any official form, I am inclined to hope that they may prove exaggerated; but I shall await with anxiety your report of the proceedings of the Legislature during their present Session.

"Her Majesty's Government are fully alive to the difficult position in which, at such a period of alarm and confusion, the Legislature and the Government of Upper Canada are placed. But as I trust that the causes of apprehension so lately existing are now, through the loyalty of the great body of the population, almost entirely at an end, I earnestly hope that they will be as distinguished by moderation after success, as they have been by gallantry in the time of danger. Nothing, I fear, would be more likely to impair the moral effects of the late events than unnecessary severity; I trust, therefore, that while every measure will be adopted essential to the security of the Province, *your influence will be successfully exerted in moderating the zeal of those, if such there be, who might be disposed to proceed to extreme measures*, and in allaying the irritation which, however natural, cannot but be attended with danger to the public peace."

clemency saving Lount and Matthews from a death upon the gallows. "Petitions," Sir George Arthur admits, "signed by not less than eight thousand persons, have been presented in their favor within the last three or four days." Lount had been a political opponent of the brother of Chief Justice Robinson, by whom the prisoners were tried. There was, indeed, no question about their guilt; but the Chief Justice afterwards performed the ungracious office of assuring the Executive Council that "he saw no ground upon which he felt that he could properly recommend a pardon or respite." Attorney General Hagerman closed his ears to the cry of mercy, and only regretted that the gallows had not more victims. The general impression to-day is that the execution of these men was a judicial murder. Sir Francis Bond Head had led them into the trap—had encouraged the rebellion when it was his duty to have taken measures to suppress it in its incipient stages—and there can be but one name for the execution of men whom the Executive had enticed into the commission of the crime for which they were made to suffer death. There is reason to believe that Lount could have purchased his life by putting the Government in possession of evidence that might have tended to place others in the position he occupied; but he resolutely refused to accept it on such terms; and, instead of blaming others for his fate, continued to the last to express fervent wishes for the cause in which he offered up his life.*

* His widow, Elizabeth Lount, in a letter addressed to Mr. Mackenzie, under date, Utica, Macomb Co., Michigan, December 8th, 1838, says:

"DEAR FRIEND.—I have been perusing a piece in one of your papers taken

Much has been said about the salutary effects of the strangulation of these men, as an example to others. The facts which I shall adduce, and which have never before been published, will show that the number of men who afterwards organized in Canada, with a view to revolt, was much greater than before. Instead of striking awe into men's minds, the effect was sometimes to produce a feeling of revenge. I find a remarkable example of this in the case of one of Lount's friends, who, after he had been at the Short Hills expedition, distinctly states: "I have been doing all in my power ever since to avenge the blood of Lount and support the cause he died for."

When Lount and Matthews were executed, a number of other political prisoners, under sentence of death at Toronto, could witness, from the jail windows, a fate which they expected soon to be theirs. Shortly

from the *Christian Guardian*, * * stating that my husband had spoken very much against you, which assertion I and my family know to be false; and I am persuaded you were acquainted with Mr. Lount years enough to think otherwise. He ever taught his family to respect Mr. Mackenzie as one of the most honest and honorable men he ever met with. I was with him during the three last days of his life. Instead of berating his friends, he prayed for their success, as well as his country's freedom, and believed Canada could not long remain in the power of such merciless wretches as have murdered its inhabitants for their love of liberty. But he forgave his enemies and prayed they might repent of their wickedness, although he considered himself unjustly put to death by them, and wished me never to ask life of his enemies. But my anxiety would not allow me to leave the least undone that was in my power to do towards saving his life, therefore I appeared before Sir George Arthur in behalf of my husband, as has been stated. His answer was, 'If your husband is as well prepared to die as is represented, perhaps he will never again be as well prepared, if reprieved now, and I do not think he can be prepared to die without bringing other guilty men to justice, as the Council thinks he knows of many whom, I think, if he would make known, mercy would be shown to him, and I wish you would return direct to the jail and tell him this from me.' He made me several other answers which are not stated here."

after, their sentences were commuted to transportation for life ; and they, with others who were banished without trial, were sent to Fort Henry, Kingston, for safe keeping, till they could be sent off to Van Dieman's Land. From Fort Henry they managed to effect their escape,* and John Montgomery and several others, after great suffering, succeeded in reaching the United States.†

About the 1st June, many persons who had been connected with the rebellion, crossed the frontier line, at the West, and took refuge in Michigan. And now commenced an organization for revolutionizing Canada, comprising a much larger number of Canadians than has ever been suspected.

The centre of the organization was in Michigan, and Gen. Handy was among the most active in its promotion. Lodges were formed, every member of which took an oath to be subject to the Commander-in-chief, Gen. Handy, and not to obey any order except from him to General Roberts.‡ Handy signed blank commissions,

* The names of those who escaped were: Edward Kennedy, Wilson Read, Thos. Tracy, Thos. Shepard, John Marr, John Stewart, Stephen Bird Brophy, Michael Shepard, Walter Case, John Anderson, John Montgomery, Gilbert Fields Morden.

† For an account of this escape, never before published in detail, see Appendix H.

‡ Whether the oath was changed before the affair of Sandwich, next winter, when Gen. Bierce had supplanted Handy in the command, or not, I cannot say ; but Col. Prince afterwards read the following oath at the Sandwich assizes. Mr. Mackenzie says he never heard of this oath ; it was read in Court by Colonel Prince and published :

“ You do solemnly swear, in the presence of the Almighty God, that you will bear allegiance and fidelity to the SONS OF LIBERTY engaged in the PATRIOT service and in the cause of CANADIAN INDEPENDENCE—that you will obey the orders of your superior officers in whatever department you may



View of the Battle of Windmill Point, below Prescott, Upper Canada, (from the Ogdenburg side of the St. Lawrence) November 13, 1838.

and sent some trusty individuals through the Provinces to form revolutionary societies, and enroll all in whom he thought he could confide. In every square mile of settled country a person was appointed to grant commissions in the secret army of revolt. Handy's commissions were given to the captains; and the associations were left to elect their own colonels. Couriers and spies, one hundred in number, were constantly kept in motion through the Provinces, taking intelligence daily to Handy. Each of them had a beat of ten miles, at either end of which he communicated with others; and this distance he regularly made both ways every day. Two hundred companies, of one hundred men each, were enrolled; making an aggregate force of 20,000 men in the Canadas, ready to rise whenever called upon; and through the system of couriers in operation, they could have been called into action with the least possible delay. The 4th of July, 1838, was fixed upon for striking the first blow. The Patriot standard was to be raised at Windsor, a Canadian village opposite Detroit; and when this was

serve—that you will never communicate or in any way divulge the existence or plans of said association. You also swear that you will devote your time, your person, your interest in promoting said cause, so far as may be consistent with your other duties—that you will never sell, barter, or in any way alter any badge that may be bestowed upon you for the purpose of designating your rank in said association. You also swear that you will not disclose or in any way communicate to any person the contents or purport of this Oath, and that you will not converse with any person in reference to this Oath, except in Convention, or with the man who first presents it to you.”

(Signed,)

James Brewer,
Jno. Alexanderson,
James Chafey,
H. H. Dennis,

Henry De Forest,
Major Ward,
A. D. Burdennis,
George S. Reid.

accomplished, the couriers were to be prepared to transmit the intelligence, with all possible speed, and a general rising was to take place. The first thing to be done was to seize all available public arms, ammunition, and provisions, and then the fortification of some prominent point designated was to be commenced.

If an accident had not occurred to prevent the execution of this plan, it is difficult to say what would have been the result. Before Windsor was occupied, it was necessary for Handy to be possessed of a good supply of arms. The State Arsenal of Michigan was his reliance. Some of the sentinels were men who had, years before, served under Handy, and others had been in the Patriot service the year before. They had proffered him their confidence; they unbolted the windows, and thus prepared the way for the robbery of the arsenal which it was their duty to protect. The keys of the magazine, at Detroit, were placed in the hands of Gen. Roberts, by another trusty keeper. Gen. Roberts obtained two scows of about twenty tons each, and took them up within a few rods of the arsenal. About thirty men were then sent into the building to remove 15,000 stand of arms, fifteen cannon, and ammunition.

And now took place the occurrence which defeated all Handy's plans. In cases of combined insurrection and invasions, there will be individuals who, with no motive but plunder, will try what they can snatch from the general confusion. A ruffian of this stamp, named Baker, came across the path of Gen. Handy. He got up an expedition on the Black River, and in-

duced forty men to join him by falsely representing that he was authorized by Gen. Handy to cross to the Canada shore with the men as freebooters. They seized some flour, and being discovered and followed to the Michigan shore, the affair created a commotion that set Gen. Brady of the United States army—who appears to have used his best exertions to put down all these expeditions—on the alert. A new guard was set on the arsenal; and on the day before Windsor was to have been captured, preparatory to a general rising in Canada, the conspiracy had collapsed from the want of arms.

Generals Handy and Roberts sent a delegation to Cleveland to see what could be done after this new failure. Gen. Putnam, whom Handy had appointed to command the brigade of London Guards, after the standard of the Patriots should have been raised and sustained in Canada, was consulted. He and others had reasons, whatever they may have been, for supplanting Handy by Gen. Bierce. Gen. Handy seems to have been poorly repaid by his associates for all his exertions and sacrifices. He appears to have been thoroughly unselfish, so far as pecuniary considerations go; having at one time conducted extensive hydraulic operations with the hope of making from \$200,000 to \$300,000, for no other purpose than that of being able to devote it to the revolutionary cause in which he had engaged.*

Mr. Mackenzie appears to have had no connection whatever with this movement, of which, in spite of the

* This account is taken from General Handy's official, and of course unpublished, reports.

change of Commander-in-chief, the attack upon Windsor, in December following, must be regarded as the final result. In 1839, Mr. Mackenzie made affidavit that, when he heard of these intended expeditions at Short Hills, and against Prescott and Windsor, through the public press, he wrote to Lockport, earnestly urging those whom he thought likely to have influence with the refugees—the Refugee Association Committee, no doubt—to abandon all such attempts as injurious to the cause of good government in Canada. He was still favorable to the independence of the Canadas; but he was not convinced that the means proposed were calculated to secure the object. He came to this conclusion, it would seem, in February, when he refused to “sail in the same boat” with Van Rensellaer, to be piloted as the latter might think fit. Besides, he was under bonds to take his trial for a breach of the neutrality laws of the United States, with the provisions of which he was not acquainted, when, at the instance of persons in Buffalo, he joined the Navy Island expedition.

Of the Short Hills affair, which took place in June, 1838, he first learned from the frontier newspapers. Those who took part in it, I find, claim to have had five hundred and twenty-six men, well armed and equipped; but it is quite certain that there was not over one-fifth of this number who fell in with the lancers at Overholt’s Tavern. The rest, if there were any such number as is alleged, must have been Canadians. A few men crossed the Niagara River, in small bodies, taking with them what arms they could. These they deposited at an appointed place, which

was reached by a march of some fifteen miles in the woods, and went back for more. These arms must have been intended for Canadians. In this way, eight days were spent before the parties were discovered. Being fired upon by a body of lancers from Overholt's Tavern, they finally set fire to it; taking prisoners all that survived, but shortly afterwards releasing them. The invaders soon after dispersed, going in different directions; but thirty-one of them were taken prisoners,* and it is believed very few escaped.

* "Among them were James Moreau, an American, who was then Colonel; Benjamin Wait, a native of Upper Canada, then Major; Samuel Chandler, an American by birth, who had been many years a resident of Upper Canada, and who acted as commissary; Jacob Beamer, who was concerned in the insurrection in the London District, under Dr. Duncombe; Alexander McLeod and John McNulty, both of whom were of the Montgomery Tavern insurgents; and a Dr. Wilson, who seems to have been an active and influential partisan among them."—*Solicitor General Draper's Narrative of the Short Hills Affair*. Moreau was hanged at Niagara for his participation in this affair.

CHAPTER X.

Mr. Mackenzie Declares his Intentions to become an American Citizen—
 Hunters' Lodges—Secret Convention in Cleveland, at which a Provisional
 Government for Upper Canada is formed, and a Republican Bank, with a
 Moonshine Capital of Seven-and-a-half Millions of Dollars established—
 Federal Spies on the Frontier Movements—Sir George Arthur's Spies—
 The American Government declares its inability to prevent marauding Ex-
 peditions on the Frontier—The Prescott or Windmill Point Expedition—
 The Leaders of that Expedition try to throw the blame of the Failure on
 one another—Mr. Mackenzie had no connection with it—Ferocious Disposi-
 tion of the Militia.

NOT till the autumn of 1838, did Mr. Mackenzie take the initiatory step provided by the federal constitution for becoming a citizen of the United States.*

* "CITY OF NEW YORK, SS.

"Be it remembered that William Lyon Mackenzie, late of the United Kingdom of Great Britain and Ireland, appeared in the Marine Court of the City of New York, held in the City Hall of the said City, on the fifth day of September, in the year of our Lord, one thousand eight hundred and thirty-eight, (the said Court being a Court of Record, having Common Law Jurisdiction, and a Clerk and Seal,) and declared on oath, in open Court, that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign Prince, Potentate, State, or Sovereignty whatsoever, and particularly to the Queen of the United Kingdom of Great Britain and Ireland.

"In testimony whereof, the Seal of the said Marine Court of the City of New York is hereunto affixed, this fifth day of September, in the year of our Lord, one thousand eight hundred and thirty-eight, and of our Independence the sixty-third.

"JOHN BARBENE, *Clerk.*"

But he never felt entirely at home in the States, and almost always continued to sigh for an opportunity of returning to his beloved Canada. His private letters contain frequent references to the subject.

It is difficult to determine whether the organization set on foot by Handy was identical with what was known as Hunters' Lodges. But I am inclined to think that it was not. The oath which he speaks of as having been taken by his followers is quite different from that usually ascribed to the Hunters.* Hunters' Societies are generally supposed to have originated in the State of Vermont, in May, 1838. I have been able to track some of their proceedings, and to unravel some of their conspiracies.

A convention of the Hunters' Lodges of Ohio and Michigan was held at Cleveland, from the 16th to the 22d September, 1838. There were seventy delegates present. Mr. Mackenzie was not cognizant of the intended meeting, and the result of its deliberations were not officially communicated to him. He was not a member of the society, and by its rules none but the initiated could be admitted to its secrets. But

* The following I find in the publications of the time, given as the Hunter's oath:—"I swear to do my utmost to promote Republican Institutions and ideas throughout the world—to cherish them, to defend them; and especially to devote myself to the propagation, protection, and defence of these institutions in North America. I pledge my life, my property, and my sacred honor to the Association; I bind myself to its interests, and I promise, until death, that I will attack, combat, and help to destroy, by all means that my superior may think proper, every power, or authority, of Royal origin, upon this continent; and especially never to rest till all tyrants of Britain cease to have any dominion or footing whatever in North America. I further solemnly swear to obey the orders delivered to me by my superior, and never to disclose any such order, or orders, except to a brother 'Hunter' of the same degree. So help me God."

a Master of a Lodge did communicate to him surreptitiously a general idea of what was done. A Republican government for Upper Canada was formed with a President, Vice-President, and Secretary of State, of Treasury, and of War. A Commander-in-Chief, Commissary-General, Adjutant General, two Brigadier Generals, and a long list of Majors and subalterns were named. A Republican Bank was formed, and a day, not stated in the letter from which I derive this information, was fixed for commencing the invasion of Canada. "There never," says Mr. Mackenzie's informant, "was such an organization before; and if we do not succeed it will be by reason of some traitor." But some others gave a much less flattering account of the Cleveland proceedings. Dr. Duncombe was among the actors in this convention. Against what point the organization was intended to operate Mr. Mackenzie was not informed, even in the irregular way in which this information was conveyed to him.

These Lodges had different centres, and there does not appear to have been, at all times, perfect harmony between the various central committees. The ambition of individuals to exercise a controlling influence seems to have led to an occasional playing at cross-purposes. All the Lodges in Ohio and Michigan were required to report to the central committee, at Cleveland. There appears to have been some serious charges brought against the Cleveland committee, arising perhaps out of the management of the Bank scheme. "If the Cleveland committee," I find it suggested by the Master of a Lodge required to report to that centre, "has forfeited the confidence of the friends

of our cause by speculation or other gross mismanagement, then we must organize *de novo*."

From "a circular address to the different Lodges upon the subject of a Joint Stock Banking Company," I learn the details of the whole Bank scheme. The name was to be "the Republican Bank of Canada," and the officers and directors were first elected on the 16th of September, 1838, for the period of one year. There are reasons for giving Dr. Duncombe credit for the paternity of the scheme. I find the circular among Mr. Mackenzie's papers, under the head of Duncombe, and that he was, among his numerous accomplishments, a currency doctor, is proved by his subsequently writing a book on banking. The circular sets out with the enunciation of certain principles relating to government and currency; one of which is that "gold and silver should be the only legal money of a country;" but then it is added that necessity may be made a plea for breaking through this rule, in which case, it is laid down, the paper should be issued by a "Republican Bank controlled by the people." Then follows the offer of the stock of a Republican Bank, and those who subscribe to the stocks are fairly warned that they need expect to receive back their money with interest only in case "the cause triumphs;" otherwise they must be content with the reflection that they have given so much to establish "liberty, equality, and fraternity," in Canada. The bank was to make loans for the Patriot service before individuals could expect discounts. The capital of the Bank was to be \$7,500,000, divided into \$150,000 shares of \$50 each to commence with; but it was afterwards

to be increased so as to give every individual on the continent the chance of becoming the lucky possessor of a share, and after the \$7,500,000 had been disposed of, no one would be allowed the privilege of taking more than one share. As some compensation for this abridgment of liberty, no limit was placed upon subscriptions to the original stock. "The vignette of the bills," we read, "are to be the heads of the late Martyrs to the cause of liberty in Canada; the head of Matthews on the left end of the bill; the head of Lount on the centre of the bill, with the words in a semi-circle over it, "the murdered;" and the head of Moreau on the right end of the bill, with the names of these heroes under their heads, with a motto, "Death or Victory;" on the margin of the bills will be the words "Liberty, Equality, Fraternity." The circular ends with the prayer: "God prosper the cause of Liberty, Equal Rights, and Brotherly Love;" another proof, I should say, of Duncombe's authorship. It was stated in evidence, on the trial of the Windsor prisoners captured in December, 1838, that the greater part of the stock was actually sold; but this is not credible. And I find from a letter written by a person who was in all the secrets, dated Cleveland, November 1, 1838, that up to that period only \$300 had been secured, although the convention had by resolution, bound themselves to raise \$10,000 in a fortnight. Of this bank Mr. J. Grant, jr., appears to have been President, and Messrs. B. Bagley and S. Moulson, Vice-Presidents.* A Canadian refugee,

* One account states that a Cleveland merchant of the name of Smith was President, and that it was under his management that the stock was sold; but

writing from Cleveland, said the conventionists were "all Americans, men of poor fortunes." "Whether they will account for the moneys received," he adds suspectingly, "time will tell." The Patriots—Canadian refugees I presume to be meant in this case—were appointed only to minor offices in the organization; and on the 1st of November, their Commander-in-chief—Bierce is no doubt intended—had taken "no effective measures to raise and embody men." The person whose letter I am quoting, himself no less than a General, says: "I am here poor and penniless. I applied to Dr. Smith, a few days ago, for some assistance from the funds collected, but to no purpose; they have got the management in their own hands, and will act as they think proper."

At this time the Federal Government had spies on the frontier endeavoring to unravel the conspiracy going on for the invasion of Canada. A stranger to Mr. Mackenzie writes to him from Washington, to assure him, on "undoubted authority," that the United States authorities are on the alert. "There are two United States officers on the frontier," he says, "one called John W. Turner and the other Captain N. Johnson, who are, as I understand, expressly deputed by the collector of Oswego, to keep an eye on any movements of men, arms, or munitions of war. Capt. Johnson is now ostensibly on the Erie and Ontario steamboat agency, and he can be identified on boats in that capacity. He has already possessed himself of the sign of communication of the Patriots, and thinks

the names I have given are appended (copied) to the copy of the circular prospectus in my possession.

he has a key which will give him access to important information. He now enjoys the confidence of the Patriots; look out for him. Duncombe, McLeod, Johnson, and others are watched." The writer was probably in one of the departments at Washington. He appears to have had access to the reports of these spies; for he is enabled to tell Mr. Mackenzie that "the organization on the frontier is immense." At the Cleveland Convention the two spies, Johnson and Turner, were present.

Sir George Arthur too had his spies on the frontier. Hayes continued to supply him with whatever he could learn of these movements. The information these persons obtained, whatever credence it might be entitled to, created great alarm at Toronto. They told him that, at the end of October, there were at least forty thousand persons in the invasion plot, on the frontier States, which was "carried on by means of masonic lodges, secretly established in almost every town along the frontier, the members of which communicate with each other by private signs, and are divided into several grades of initiation."* Hunters' Lodges are no doubt intended.

But when Sir George Arthur had learned something of the plot, the expedition of Windmill Point was on the eve of taking place, and it had been carried into effect two days before Mr. Secretary Forsyth could reply to Sir George's complaint, conveyed to the

*The Cleveland conspirators were of opinion that the spy who gave this information to Sir George Arthur, had given Mr. Bagley as his authority; but still Bagley does not seem to have been suspected by his fellow conspirators.

President through Mr. Fox. The Federal Government, as we have seen, had previously learned, from its own spies, some particulars of these movements. But it pleaded its inability to arrest them. "The utter impracticability," said Mr. Forsyth, "of placing a frontier extending nearly one thousand miles, in a military attitude, sufficiently imposing and effective to prevent such enterprises, is evident." But, it was added, regular military armaments and the movement of armed bands to any considerable extent from the American side of the line, would be successfully repressed; and the Federal Government promised to use all the means at its disposal to put down all other hostile preparations.

Between the 1st and 10th of November, the Hunters' Lodges were concentrating their forces for an attack on Prescott.* On Sunday morning, the 11th, two schooners, in tow of the steamer United States, left Millen's Bay between Sackett's Harbor and Duck Creek. The steamer United States left Millen's for Prescott, having on board men, arms, and munitions of war. The men who came down in the steamer were transferred to the schooners in the evening; one of which was in command of Van Shultz, a brave Pole,†

* The places at which there were Lodges, according to statements made by prisoners taken at Prescott, were: Oswego, Salina, Liverpool, Syracuse, Auburn, Great Bend on the Black River, Palema, Dexter, Evan's Mills, Watertown, Brownville, Lerayville, Sackett's Harbor, Cape Vincent, Chaumont, Millen's Bay, Alexandria, Orleans, Flat Rock, Ogdensburg, Rossie Village.

† Van Shultz Nils Sezolteyki, a native of Poland, was at this time only thirty-one years of age. He had been residing near Salina, N. Y.; he was introduced to some of the Patriots by Mr. Stone, a merchant of that place. In October, 1838, he was in New York, where he signed commissions in

and the other in charge of the notorious Bill Johnson. While on their way down the river, the management of the expedition was discussed by Colonel Van Shultz, Captain Buckley, Colonel Woodruff, and others. Van Shultz proposed to land, immediately on their arrival, on the Prescott wharf, all the men in the expedition, about six hundred in number; then, after leaving a sufficient force to guard the boats, to divide them into three bodies, with the principal of which he should march through the village, while Colonel Woodruff should lead one wing round on one side and another person the other, on the other side. The three bodies were then to meet between the village and the fort, in case any resistance were offered from that point.* But the fort was only then in course of construction, and there was not a man in it.† Van Shultz proposed to keep the schooners in the river below the fort for the purpose of preserving a communication with Ogdensburg, and transporting provisions, ammunition, and reinforcements of volunteers. With the fort, the village, and river at his command, the artillery he had with him with what more he expected to find in the fort, he fancied he should be able to prevent the British boats descending till the numbers of the invaders and the inhabitants by whom they would be joined would become irresistible. He was opposed to first landing on the American side, at Ogdensburg, fearing that the number who would refuse to go back ciphers, as commander of the Patriotic Army. He obtained some Polish and German recruits, whose expenses he paid.

* *A Narrative of the Expedition to Prescott*, by Sebastian John Meyer, who took part in it.

† *General Bierge's Account of the Prescott Expedition*.

to the vessels would be greater than that of the additional volunteers who would be obtained.

The principal officers of the expedition opposed the plans of Van Shultz; yet, in skill and bravery, they were all very far his inferiors. They did land at Ogdensburg; when General Bierge, who was to have commanded the expedition, fell sick with a suddenness that created a suspicion of cowardice, which he was never able to remove. The men lost courage on seeing their leader show the white feather; and instead of crossing one thousand strong, as they had been taught to believe, Van Shultz took over about one hundred and seventy men in one of the schooners, about nine o'clock, on the morning of the 12th. Bill Johnson managed to run the other schooner upon the bar, with many arms and much ammunition on board. She never crossed to the succor of Van Shultz.* The steamer *United States* was prevented from passing down below the town by the British steamer *Experiment*. The schooner which had been aground started in tow of the *Paul Pry* for the Canada shore, and when fairly in the Canada waters—the magistrates of Ogdensburg had sent Lieutenant Fowell a request, to which he acceded, not to fire in American waters—the *Experiment* opened upon her with grape and canister. The *Paul Pry* now left the schooner to her fate, and hastened to take shelter at Ogdensburg. Lieutenant Fowell now ran the *Experiment* within ten yards of the schooner; and was about taking her in tow, when he found himself in shoal water, and the *United States* coming rapidly down upon him. The

* Sebastian John Meyer's *Narrative*.

Experiment found it necessary to move towards the town, when a brisk fire took place between her and the other two vessels. The schooner got into Ogdensburg, and the United States, having received some shot in her hull, and one of her engines being struck by an eighteen pound ball, followed soon after.*

On hearing of the expedition, Captain Sandom, commanding the Royal Navy in Upper Canada, set out from Kingston in pursuit, with a detachment of forty men and a party of marines, in the steamer Victoria, accompanied by the Cobourg. He arrived at two o'clock, on the morning of the 13th; and the men having been landed, they, with a party of militia, under Colonels Young, Frazer, and Gowan, proceeded in two columns to attack the invaders, who were strongly posted behind stone walls, on rising ground. After an engagement of an hour's duration, the invaders were driven into a large circular stone mill, of which the walls were of immense thickness, and a stone house adjacent.† Capt. Sandom with an armed steamer took up a position on the river below the mill; but the fire of his guns made no impression on the thick walls. The men in the mill and the stone house kept up a galling fire, both true and steady; and as no impression was being made on the buildings, it was deemed best to withdraw the greater part of the loyalist forces, at three o'clock in the afternoon, leaving strong pickets to prevent the escape of the invaders, till heavy artillery could be obtained from Kingston.

* Lieutenant Fowell to Captain Sandom.

† Col. Young's Report.

Meanwhile Colonel Van Shultz, not receiving the expected reinforcements from the leaders of the expedition who remained in Ogdensburg, and not being joined by any of the inhabitants, was reminded by the one hundred and seventy men under his command of the hopelessness of their position. They begged him to lead them back to the States. But there was not a single boat at their disposal, and the British steamer *Experiment* kept a vigilant look-out on the river. During the night, Van Shultz dispatched a man across the river on a plank, to implore that boats might be sent. On Tuesday evening, he received for reply that a schooner would be sent over to take them away. They carried their wounded down to the river bank, and waited with anxiety for the promised vessel; but she came not.* The *Paul Pry* did cross during the night of Thursday, and, not being able to go very near the shore, sent two small boats to the windmill. Mr. Preston King, afterwards a member of Congress, declared that Col. Worth of the United States Army, suggested that an attempt should be made to rescue the Patriots from the windmill, and that for this purpose he would permit the *Paul Pry*, then in the custody of the United States Marshal, to be used.† Though the American shore had been lined with thousands of spectators during the day, only from twenty-five to twenty-six persons accompanied Mr. King in the *Paul Pry*; and though the visit led to a council of war being held in the windmill, no practical result followed. Some small

* Letter of Van Shultz, dated December 1, 1838.

† Published letter of Preston King to Mr. Gilbert, dated Ogdensburg, October 6, 1840

boats, expected to follow, never went. Colonel Worth refused to allow the Paul Pry to go back a second time; and thus the attempt to rescue Van Shultz and his devoted band was at an end.

On the 16th, at noon, Colonel Dundas returned to Prescott from Kingston with four companies of the Eighty-third regiment, and two eighteen pounders and a howitzer. The guns were placed in position with all possible dispatch, on rising ground, about four hundred yards from the house and the mill occupied by the invaders. Nearly every shot perforated the massive mill. When this last battle commenced, Colonel Van Shultz says he had only one hundred and eight men left. He was surrounded by a force which he estimated at two thousand. At the same time, Captain Sandom took up a position on the river below the mill with two gunboats and a steamer; but the fire of his eighteen pounders, less effective, failed to produce a breach in the thick walls of the mill. About dark, Colonel Dundas moved closer to the buildings; while the militia acted on both flanks, supported by a company of the 93d, to prevent the escape of the enemy. Under cover of night, the division of Van Shultz's men, who were in the stone house, took refuge in the brushwood on the bank of the river, where, with their commander, they were taken prisoners. Van Shultz had undertaken the defence of the house with ten men, because he could get no one else to do it. A flag of truce was displayed from the mill, whence the firing had ceased; and Colonel Dundas accepted an unconditional surrender.

There were probably not less than one hundred and fifty lost, in killed and wounded, on both sides, though the official reports are somewhat contradictory on this point.*

One hundred and fifty-seven prisoners were taken, of whom eleven were executed, including the gallant and heroic, but misguided and betrayed leader, Col. Van Shultz. They were fastened to a rope, with Van Shultz at the head, and in this way marched to Fort Henry.

The various leaders in this ill-starred expedition tried to throw the responsibility of the disaster upon one another, no one being willing to accept it. Bill Johnson, who induced many to take part in it, went over to the windmill in a small boat on Monday night, and took away some of his friends, telling them

* Colonel Plomer Young, in his report of the 14th of November, giving an account of the first battle, "computes" the killed and wounded of all ranks at forty-five. Colonel Van Shultz, who states the original number of his men at one hundred and seventy, says, that on the commencement of the last battle he had only one hundred and eight men left; thus confessing to a loss of sixty-two men up to that time. But this must be an error, as is proved by the number of prisoners captured. Besides, Bill Johnson, who took away four of Van Shultz's men, alleges that he sent him fifty others. If this statement were true, which I doubt, Van Shultz must have lost about one hundred men up to the time of the last battle. Van Shultz complains that he did not receive the expected reinforcements, but this can hardly be taken to mean that he did not receive any at all. In the battle of the 16th he reports that he lost only one man, and Adjutant General Foster gives the entire British loss at forty-five killed and wounded. If this be correct, Colonel Young's computation of the loss in the first battle must have been very wide of the mark. An eye-witness assures me that on the morning after the last battle, when the windmill had been evacuated, he counted one hundred dead bodies. This would include the whole loss of the invaders in killed, for although an hour's cessation of hostilities was given on the Friday before the steamers took up their position near the mill, for burying the dead, the invaders were unable to bury theirs for want of shovels.

that he was certain the expedition must fail; and, after that, had the baseness to induce a number of Americans to go over and join Van Shultz and his devoted band.* When Van Shultz had been sentenced by a court-martial to be executed, he execrated "the miserable cowardice of General Bierce and Bill Johnson."† "I only wish," he said, "those cowardly rascals, General Bierce and Bill Johnson, might be punished, who brought us into this prison, and I would die content."‡ He relied upon them for reinforcements, but Bierce feigned sickness, and Bill Johnson pretended that, after he had given up two hundred and seventy stand of arms in his possession, he was deprived of his commission by his superiors, and left without the power to act. Eatis, another leader, remained inactive at Ogdensburg. General Bierce retaliated on Van Shultz, by alleging that the act of crossing to the Canada side was unauthorized; that he himself had been at Ogdensburg four days before, when he became convinced that if the place were not taken by surprise it could not be taken at all; that a large number of persons in and near Prescott would join the standard of the invaders, if the town and fort were taken; but that otherwise no assistance could be expected from the inhabitants, who would be obliged to rally to the call of Colonel Young to defend the town. Van Shultz

* This admission was afterwards made by Johnson to Mr. Mackenzie, at Albany.

† Letter from Van Shultz to Mr. J. R. Parker, Oswego, dated Fort Henry, December 1, 1838.

‡ Letter published in the *Watertown Jeffersonian*, December 1, 1838.

Bierce adds, acted rashly and in ignorance of all these facts.*

Van Shultz, when under sentence of death, which was sternly carried into effect, caused his thanks to be publicly made known to the officers and men of the Eighty-third Regiment, for the kind treatment he had received from them. He declared that the prisoners owed their lives to them; that it was owing solely to their protection, after they surrendered, that the militia did not kill the greater number of them. Unhappily this ferocious disposition on the part of the militia is attested on the highest authority. In commending the conduct of Colonel Dundas, Sir George Arthur said: "To his determined resolution, indeed, it is to be ascribed that the militia of the country gave any quarter to the brigands; nothing, I believe, but the presence of the regular troops having saved any of them from being cut to pieces."

Van Shultz was in New York a short time before the expedition against Prescott, but he neither consulted or in any way communicated with Mr. Mackenzie, who was then living there. "I knew nothing of the expedition," Mr. Mackenzie publicly promulgated in his *Gazette* of the 14th of November, 1840, "never saw or wrote a line to Van Shultz, was four hundred miles distant, and had nothing to do with the matter whatever; nor did any of the sufferers, when on trial, or going to the gallows, or to banishment, once name me."† And he afterwards made the same remark

* Bierce's *Account of the Prescott Expedition*.

† This statement is fully borne out by official documents. See *Correspondence Relating to the Affairs of Canada*, Part II.: published by the House of Com-

with regard to the Windsor expedition, with which he had no connection whatever.

A simultaneous attack upon different points seems to have been at one time intended, and several of those who took part in the Prescott expedition were led to believe that it would take place. Montreal and Quebec they expected would at the same time be assaulted, and they were told that three weeks would be sufficient to achieve the independence of Canada. Each man engaged in the expedition was to receive twenty dollars bounty, ten dollars a month while on service, and one hundred and sixty acres of land, when the new government was established.*

mons, 1840. From pages 56 to 76, inclusive, the space is taken up with an alphabetical list of the prisoners taken at Windmill Point, with a column containing the names of "persons living in the United States, accused by the prisoners of advising or taking part" in the expedition. The only prominent Canadians mentioned in this connection were Drs. Rolph and Duncombe. The latter was an American by birth, and his connection with the expedition goes to show that it was no stranger to the Cleveland conspiracy. But whatever connection Dr. Rolph may have had with this expedition, either by advising or assisting, there is reason to believe that he had very little to do with the frontier movements on the American side.

* Mr. W. H. Draper's Report to Lieutenant Governor Arthur, January 21, 1829.

CHAPTER XI.

President Van Buren's Neutrality Proclamation—Its Reception by the Refugees—Real Motives of the Federal Government with regard to Canada—Traditional Policy of Leading Statesmen of the States on the Subject—Sir George Arthur renews the Reward of £1000 for the Apprehension of Mr. Mackenzie—Judge Jones urges that Mr. Mackenzie ought to be given up by the Americans—Mr. Mackenzie addresses large Public Meetings at New York, Philadelphia, Washington, and Baltimore, in favor of the Destitute Canadian Refugees—The Windsor Expedition—Col. Prince orders Prisoners to be Shot in cold blood.

A FEW days after the Prescott expedition, President Van Buren issued a proclamation calling upon the citizens of the United States to give neither countenance nor encouragement to persons who, by a breach of neutrality, had forfeited all claim to the protection of their own country; but to use every effort in their power to arrest for trial and punishment every offender against the laws, "providing for the performance of their obligations by the United States." From this moment, many of the Canadian refugees in the States, and others who sympathized with them, denounced Mr. Van Buren in the strongest terms of censure they could command. "His officials assure me," Mackenzie, who had been in Washington, wrote to Dr. O'Callaghan, "that he is every thing Fox wishes him to be;" and there can be no doubt that the refugees generally believed that he was doing all he

could to preserve the neutrality of the United States. And I see no reason to doubt that he did his duty, in that respect, to the best of his ability.

I have, however, been enabled to penetrate beneath the surface of fair appearances to the real motives of the American Government with regard to Canada. In February, 1838, an interview took place between a General of the United States Army and a leading Canadian Patriot, in which the General said: "I am desirous, for your own good, for that of the refugees generally, and for that of the Canadians in Canada, to make you acquainted with the views of our Government and of myself relative to the difficulties existing in Canada. It is the wish of us all and of the people of the United States, nine out of ten, that you should effect your emancipation; but we do not see the slightest shadow of hope for you *at present*. If the outbreak had occurred one year sooner, or was to [occur] one year later than now, there would be no doubt of your success, which is our cordial wish; but as there is [now] no hope for your success, and as an attempt followed by failure would surely end in a dreadful loss of life, and expose the resident people of Canada to harsher treatment than they might otherwise experience, we are, out of humanity, determined to suppress any movement on your part. It would take a force of 6,000 men, well armed, to enter Canada, and they should take with them a large supply of arms, etc., for the people, and also to commence, for contingencies, with £200,000, to be followed by £2,000,000 more. This supply the Patriots cannot now procure, and without it they cannot succeed. If

you had only arms you might do, [here he derives the necessity of such a large amount of cash;*] if you could get a small loan, with that you could purchase, if necessary, 50,000 stand of arms in the States; there would be no difficulty in conveying them into Canada in less than three months; but you cannot get the money or the arms; so you must give up your hope for the present. If you are about any preparation for invasion, pray discontinue, and prevail on your friends to abandon your project." At the interview in which the American General thus expressed himself, there was a bank president present; a circumstance which, says the Canadian Patriot, "prevented both the General and myself saying *all* that each wished; and although I met him once since, he has been so beset by his friends and our enemies, that I have not ventured to sound him on some delicate points. He plainly told me, at both interviews, that it was necessary for the United States to go to war; that such an occurrence would be of the greatest advantage to them." The General is now in the Federal Army, and the Canadian Patriot, who had the interview with him, is still living: circumstances which induce me to withhold their names.

Nor must it be supposed that the views expressed by the United States General regarding Canada were confined to military men. A civilian, who has since been a member of the Federal Government, wrote to Mr. Mackenzie, under date Washington, March 30, 1841: "Of one thing you may rest assured, that no

* These words are in the letter from which I transcribe this account of the American General's speech.

man in America more ardently desires the cessation of British power on this continent than I do, or more anxiously watches for an opportunity to promote that great and noble object, which is alike important to the peace and well-being of the United States and the freedom and progress of the oppressed people of the colonies." At this time, there were few people on the face of the earth freer than these very colonists; the full control of all their local affairs having been unreservedly granted to them. Even Mr. Calhoun, strange as it may seem, remarked to Mr. Mackenzie that the United States wanted more free territory. His idea may have been that it would be required as a balance to an equivalent portion of slave territory to be acquired in Cuba and elsewhere.

Another leading Patriot who visited the Federal capital a few days after the issue of Mr. Van Buren's neutrality proclamation, wrote to Mr. Mackenzie, under date Washington, December 20, 1838:—"The President and most of his intimate friends hide their partiality for, or fear of, England, under the philanthropic love they have for peace, under the philosophic faith they have that justice and argument must be all powerful, in this moral and enlightened age, and will force England to discontinue its tyranny. Their hearts and their prayers are with us, and that's all. I told them to leave the duty of prayers to the chaplains of their houses; that they had other duties to perform." And again: "On all sides," he is speaking of the leading politicians of both parties, "they are agreed that it is possible that the warfare on the borders may end in collision between the governments,

if the pride of England urge it to declare war; that they ought not themselves to begin it, because the natural and rapid increase of population on the lakes, in Michigan and Wisconsin, must inevitably, within a few years, give them the Canadas with lighter sacrifices than at present, when they are greatly weakened by the greater inequality that exists between the two parties than had ever been the case in this country" before. All the leading politicians at Washington urged the sending of agents to England and France by the Canadian Patriots; and M. Papineau's subsequent visit to France seems to have been in some such capacity.

This has been something like a traditional policy on the part of American statesmen. An unpublished autograph letter, written by ex-President Madison to the then President Monroe, in my possession, goes to prove this. The letter is dated Montpelier, November 28, 1818. After some reference to the impressment question, Mr. Madison says: "The remaining danger to a permanent harmony would then lie in the possession of Canada [by England]; which, as G. B. ought to know, whenever rich enough to be profitable will be strong enough to be independent. Were it otherwise, Canada can be of no use to her when at war with us; and when at peace will be of equal value, whether as a British colony or an American state. Whether the one or the other, the consumption of British manufactures and export of useful materials will be much the same. The latter would be guarded even against a tax upon them by an article in our Constitution. But, notwithstanding the persuasive nature of these considerations, there is little probability

of their overcoming the national pride which is flattered by extended dominion, and still less perhaps ministerial policy, always adverse to narrow the field of patronage. As far as such a transfer would affect the relative power of the two nations, the most unfriendly jealousy could find no objection to the measure; for it would evidently take more weakness from Great Britain than it would add strength to the United States. In truth, the only reason we can have to desire Canada ought to weigh as much with Great Britain as with us. In her hands, it must ever be a source of collision which she ought to be equally anxious to remove, and a snare to the poor Indians, towards whom her humanity ought to be equally excited. Interested individuals have dwelt much on its importance to Great Britain, as a channel for evading and crippling our commercial laws. But it may well be expected that other views of her true interest will prevail in her councils, if she permits experience to enlighten them.”*

The recent prediction of Mr. Secretary Seward that these British-American Provinces will make excellent States of the Federal Union, and the still more recent official avowal of President Lincoln that the great work of the last half century has been to destroy European power in America, preclude the belief that the secret wishes and ultimate policy of the leading men of the United States have changed. There had been, years before the war between the North and the

* For the opinions of Washington, Jay, Adams, Franklin, on the importance of Canada forming part of the United States, see Mackenzie's *Trial at Canandaigua*: pp. 248—9—50—1.

South broke out, leading politicians in the Northern States, in favor of breaking up the Federal Union with a view of the non-slaveholding States forming a connection with British America. For obvious reasons, I withhold their names.

Two days after the surrender of Van Shultz, Sir George Arthur issued a proclamation renewing the reward of £1,000 for the apprehension of Mr. Mackenzie. The pretext for this procedure was the pretence that he had been seen, on the 17th of November, in the neighborhood of Toronto. On that very day he was in Philadelphia, where he addressed a meeting of five thousand persons. About a month after, he was warned that an attempt would be made to kidnap him, and take him over to Canada. Judge Jones, an old political opponent, wrote to a brother judge, in the State of New York, complaining that the political refugee was not given up to the vengeance of his enemies; though he must have known that there is nothing on which England more prides herself than that she is enabled to offer an asylum to all classes of political refugees, and that about the last thing she would consent to do would be to surrender one of them for punishment.

As Kossuth did afterwards, in the case of Hungary, Mr. Mackenzie held a series of public meetings in some of the principal cities of the States, in favor of Canadian independence. The first was held at Vauxhall Garden, New York, on the 15th of November. While disclaiming all intention of interfering with the domestic arrangements of other nations, or violating the neutrality laws of the United States, the meeting ex-

pressed its abhorrence of the executions which had taken place in Canada, for political offences; called on the Federal Government to insist on full and complete satisfaction for the Caroline outrage, and recalled to grateful recollection the services rendered in the American revolution by Lafayette, Montgomery, De Kalb, Kosciusko, Steuben, and other foreigners. A committee was formed to collect funds for the relief of the "suffering republicans of Canada," who had been driven into exile. In Lower Canada, Dr. Nelson had, a few days before, made a new appeal to arms,* and

* On the night of the 3d of November, the *habitants* between the Yamaska and Richelieu Rivers flew to arms, and leaving their villages, assembled at St. Ours, St. Charles, and St. Michael. The *habitants* of Beauharnois are represented as having risen *en masse*, and made a great many prisoners. About four thousand concentrated at Napierville, under command of the intrepid Dr. Nelson, Côté, and Gagnon, between the 3d and the 6th. Sir J. Colborne dispatched the *corps* under Major General Sir James McDonald and Major General Clitheroe to march to Napierville to attack them. The troops did not arrive till the morning of the 10th, and the insurgents had left the night previous. A small body of them were attacked by the militia while on the march from the La Colle to Rouse's Point. They were overpowered, lost three hundred stand of arms and one field-piece, and were driven across the frontier. On the 9th a party of insurgents, under Dr. Nelson, came into collision with a body of volunteers who had taken possession of a church at Odell Town, in which they suffered great loss. Major Carmichael, with a detachment of the Seventy-first Regiment and two battalions of Glengary Militia marched to Beauharnois on the 10th. The insurgents were driven back, and four or five men of the Seventy-first Regiment were killed and wounded. See Sir John Colborne's *Dispatch to Lord Glenelg*, November 11, 1838. On this occasion the militia is said to have committed great atrocities. The following statement is from an unpublished letter among Mr. Mackenzie's papers:—

“L'ACADIE, April 2, 1839.

“A probable estimate of property destroyed by the *volunteers* and troops at the command of Sir John Colborne in the county of L'Acadie, during the month of November, 1833:—74 houses and 22 barns burnt, \$49,760; 6 houses interior destroyed and 335 houses pillaged, \$26,800; total, \$76,560; 243 children and 131 women turned into the street naked in the month of November.”

issued a Declaration of Independence on behalf of a Provisional Government for that Province, followed by a proclamation, offering security and protection to all who should lay down their arms and cease to oppose the new authority that claimed to be in existence before the old one had expired. Notice was taken of this circumstance by the meeting, which tendered its sympathy to Lower Canada.

Mr. Mackenzie was not, at this time, in the secrets of the Lower Canada Patriots any more than in those of the pretended government of Upper Canada which had been set up at Cleveland. Dr. Robert Nelson had been in New York a short time before, and, calling on Mr. Mackenzie, proposed to tell him the plans of the Lower Canada Patriots, when Mr. Mackenzie stopped him, by saying: "Tell me nothing, more or less; as I am to take no part, I have no means to aid, and I want to know nothing either as to what has been done or may be intended." On the 12th of June previous, he had been indicted, at Albany, for a breach of the neutrality laws of the United States, for the part he had taken in the Navy Island expedition, and while

The atrocities committed by the militia beggar description. Colonel Angus McDonell, commanding the Fourth Regiment of Glengary Militia wrote his uncle, Bishop Macdonell, November 19, 1838: "We proceeded down towards Beauharnois by a forced march, burning and laying waste the country as we went along; and I must say it was a most distressing and heart-rending scene to see this fine settlement so completely destroyed, the houses burnt and laid in ashes, and I understood the whole country to St. Charles experienced the same; the wailing and lamentation of the women and children, on beholding their houses in flames and their property destroyed; their husbands, fathers, brothers, sons, dragged along prisoners, and such of them as did not appear were supposed to be at the rebel camp." The details of some of these atrocities it is impossible to put into print.

the trial was hanging over him, he had an additional reason for being anxious to keep clear of all similar movements.

At Philadelphia Mr. Mackenzie addressed the vast assemblage for an hour and a half. "There was a general cry of 'Go on,'" a local journal reported, "when-ever he evinced a disposition to bring his speech to a close." He was further described as "a plain business-like speaker, using no rhetorical flourishes, and keeping in a rather homely strain as close to the point as possible, which, combined with his earnestness and fluency, enabled him to fix the attention of his hearers much longer than is usual in a popular assembly."* A committee similar to that of New York was appointed. In an address to the citizens which this committee issued, they disclaimed the idea of asking for arms or recruits; they only asked for sympathy and the means of alleviating the sufferings of the refugees. But it does not appear that any collections were made. In a letter addressed to Mr. Mackenzie, dated Washington, December 20th, 1838, the writer says: "You have seen splendid assemblies in Albany and New York; large committees appointed to make large collections. Not a man of them has moved; not a farthing has been obtained. The directions from Washington have in a moment staid and cooled the warmest enthusiasm." One of the leading refugees appealed to Congress to succor his distressed compatriots; but the written constitution was pleaded as a bar to their doing so. Mr. Mackenzie then went to Washington, and there held a meeting very much to

* *Pennsylvanian*, Nov. 19.

the annoyance of Mr. Van Buren. Two of the Washington papers refused to publish an advertisement announcing the intended meeting; the other two published it. Some of the Heads of the Departments sent circulars to their clerks, ordering them not to attend. About a thousand persons were present at the meeting, the failure of which had been predicted, even by some who favored it. The last of these meetings, held at Baltimore on the 22d of November, was well attended.

We have seen that Bierce superseded General Handy in the command of the "Army of the North-West." He was a lawyer, living at Akron, Portage County, Ohio; where, about that time, he was United States Attorney. He was appointed by the Cleveland Committee of Hunters. Handy's plan of first raising the standard of revolt at Windsor, and then causing a simultaneous rising of the organized corps in Canada to take place, was abandoned under the new management. Prescott was probably thought to be a better point of operations for the purpose of obtaining a footing in the Province, from its more central position on the frontier, and the readiness with which the windmill could be converted into a fort. But when Van Shultz had failed at Prescott, Mr. Bierce was to revive the project of Handy at Windsor. For this purpose men were collected at various points on the frontier, to the number of nearly four hundred. Monroe County, Michigan, supplied about one hundred refugees and Patriots; Buffalo, something over sixty; Rochester, seventeen.* The Rochester and Buffalo men took

* Herman A. Keep, one of the Windsor expedition.

steamer at the latter city, and received a reinforcement at Munroe. From this place they walked to Swan River, the central rendezvous of the party. At this point they remained forty-eight hours, their numbers then being three hundred and sixty-two. On the morning of the third day, they marched to the Junction, four miles from Detroit, equipped themselves and made ready to cross into Canada, where they seem to have expected that they were about to commence a winter campaign. General Bierce and most of the Patriots are said to have been well supplied with money—the proceeds it may be of the Cleveland banking scheme—and Commissary Bronson, of Buffalo, had a good supply both of money and provisions. The men had been led to expect that a steamer would be in readiness to take them over from the Junction; but no steamer was there. A fatality attended all these movements, from the battle of Yonge Street till now: there was always some great want; some fatal blunder was committed; some gross neglect of duty occurred; some act of indiscretion, or cowardice, or some fatal delay marred the whole plan. Such are the results of civilians undertaking to conduct war-like operations. By night the men had marched to Detroit; a steamer was ready to take them across; but General Bierce, whom they had never seen, was not ready. They were ordered to march back into the woods; and having obeyed, they returned next night to the outskirts of the city, prepared to cross. General Bierce sent his aid to say that the steamer was not ready; though the men had the evidence of their own senses that it had steamed up twenty hours be-

fore. They were irritated and soon became suspicious. Was Bierce bribed by the agents of the British in Detroit? Or did he hold back from cowardice? Such were the questions they asked themselves. Two full companies left in disgust. The delay was ruinous to the expedition. A knowledge of the encampment was spread abroad; and couriers were sent through the Western District to bring up men from the defence of Windsor, Sandwich, and Fort Malden.* On the night of the fifth day, when the numbers had been much reduced by desertions, General Bierce was ready to cross, the steamer was ready, and a crossing was made.† Bierce is said to have shown a strong disinclination to cross; and to have been finally compelled to do so by the reproaches of the officers and men under his command.

In going down to the steamer Champlain, on the evening of the 3d of December, the invaders marched openly through the streets of Detroit, and were allowed to pass within sight of the sentinels stationed at the public arsenal, without interruption. On the following morning, when the attack was made upon Windsor, a large concourse of persons, of which the number has been estimated as high as 5,000, stationed themselves on the wharves, steamboats, and other vessels, cheering the invaders on; and when the tri-colored Patriot flag displayed its twin stars and the word "Liberty" in the breeze, on Canadian ground, the air was rent with

* Heman A. Keep.

† Some of the prisoners stated the number who crossed at three hundred and fifty; but this was probably an exaggeration. Keep stated it at only one hundred and sixty-four

shouts of applause from the assembled multitude on the American shore.* The small band of daring invaders were marched in two divisions: the first being commanded by Cols. Putnam and Harvell; General Bierce bringing up the rear, and having a special regard to his own personal safety. On landing, he had briefly addressed the men, and issued a proclamation to "the citizens of Canada."† On approaching a house

* Report of Henry Sherwood, Judge Advocate, on the case of the Windsor prisoners, January 26, 1837. Heman A. Keep.

† The address was in these terms:—

"SOLDIERS! the time has arrived that calls for action—the blood of our slaughtered countrymen cries aloud for revenge. The spirits of Lount, and Matthews, and Moreau, are yet unavenged. The murdered heroes of Prescott lie in an unhallowed grave in the land of tyranny. The manes of the ill-fated Caroline's crew can only be appeased by the blood of the murderers.

"Arouse, then, soldiers of Canada! Let us avenge their wrongs! Let us march to victory or death; and ever, as we meet the tyrant foe, let our war cry be: 'REMEMBER PRESCOTT.'"

Here is the proclamation, signed by William Lount, who was taking this means of avenging the execution of his father:—

"CITIZENS OF CANADA! We have received the Standard of Liberty on our shores. It is not an ensign of oppression, but of protection. We have returned to our native land, not as enemies, but as friends. Charges, false as the hearts of our oppressors, have been made against us; and you have been told that we are pirates, robbers, banditti, and brigands. You have been told that we came to plunder and destroy; and that the reward for which we are contending was indiscriminate robbery. False is the charge—alike false and deceptive. We come to restore to our beloved country, that liberty so long enjoyed, and so tyrannically wrested from us. This is our only object—this is the end of our desires, and of our ambition. When this is accomplished, gladly will we return to the cultivation of our beloved fields, and the enjoyments of the domestic fireside.

"No one who remains at home shall be molested in his avocations—those, only, found in arms, or aiding our oppressors, will be treated as enemies; those aiding us in restoring liberty to Canada, will be hailed as friends to us, to Canada, to humanity.

"Let every one, then, who has not the spirit to engage in the cause of liberty, remain at home, and pursue his usual avocations in peace.

used as barracks for the militia, shots were exchanged between the occupants and the invaders; and a Capt. Lewis, from the London District, who was with the latter, was killed. The invaders set the building on fire, and two militia-men are said to have been burnt to death. The sentinel was shot. A negro who refused to join the assailants was killed; and Staff-surgeon Hume, who went up to them under the supposition, it is said, that they were Canadian Militia, lost his life, and his body was barbarously mutilated after death. The steamer Thames, embedded in the ice, shared the fate of the barracks. As the flames from the building and vessel curled up in the gray of the breaking morn, three cheers were given from the Detroit shore, and answered by the invaders. While the barracks were being taken, Bierce remained in the rear.

After this, the party proceeded towards the centre of the town, to the cries of "Remember Prescott," and "Remember the Caroline," where the principal division was met by a militia force under Col. Prince and Captain Spark, and driven into the woods, where they were not immediately pursued. The rear-guard remained at a distance with a number of prisoners. Col. Broderick, with detachments of royal artillery and the Thirty-fourth Regiment and a nine pounder, arrived from Amherstburg. Bierce resolved to retreat,

"But above all, let those who ask for honor, and glory, and their country's good, espouse the cause of the Patriots of Canada.

"Head Quarters, Patriot Army, Windsor, Nov. 30.

"By order of the Commander-in-Chief,

"WM. LOUNT, *Military Secretary.*"

and leave the larger body of the men who had taken refuge in the woods. Signals were made to the steamer *Erie*, which had a detachment of United States troops on board, to come to their rescue, but she declined. The retreating party were reduced to the necessity of picking up canoes, or whatever they could find, in which to escape. One of the boats was fired upon by the cannon while crossing, and one man was killed. The United States steamer *Erie*, in attempting to cut off the escape of these persons, fired several ineffectual shots.

In this raid, twenty-five of the invaders lost their lives, and forty-six more were taken prisoners. Of the twenty-five, four were taken prisoners and shot, in cool blood, without the form of a trial, by order of Col. Prince. This act was condemned by Lord Brougham and others in terms of great severity; and there can be no doubt that, whatever excuses may be made for it, Colonel Prince committed a terrible mistake. If the opinion of the Attorney General of Upper Canada was of any value, in such a case, Col. Prince might have pleaded it as authority. In the month of March previous, the magistrates of Sandwich, with Col. Prince at their head, had complained to the Lieutenant Governor that the American prisoners, taken in the schooner *Anne*, and at Point au Pelé, were not punished; and the case being referred to Attorney General Hagerman, that functionary reported that "they might have been put to death by their captors, at the moment they were taken, as outlaws, who had forfeited all claim to the pro-

tection of the laws of every civilized nation." It is sufficient to say that the general verdict of mankind has not held Colonel Prince excused for the slaughter of these men without even the form of a trial.

CHAPTER XII.

Mr. Mackenzie removes to Rochester—Disorganized state of the Refugees—Canadian Political Prisoners in England—General Handy reappears upon the Scene—He sends McLeod to the West to get up an Organization—McLeod's Reports—Proposals to bring Indians into the Patriot service—Materials of war—Associations of Canadian Refugees formed at Rochester, Auburn, and Cincinnati.

So long as Mr. Mackenzie remained at New York, he was between four and five hundred miles from the nearest centres of frontier operations. During the last three quarters of the year 1838, he had been occupied in the publication of a newspaper; and was now about to yield to the solicitations of his friends to remove to Rochester, where it was thought its influence would be more directly felt. In the early part of January, 1839, he visited that city, and resolved to remove there with his family and Printing Office.

After visiting Rochester, he gave an account of the condition of the refugees in a private letter, which I have received, with many others, from the person to whom it was addressed. "Their organization and union," he said, "apart from that of the associations who aid them, is nothing. They have little influence, nor will it increase until a better system is adopted." He thought Canada could easily be revolutionized, "if men would go right about it." "I shall try," he said,

under date Rochester, Jan. 10, 1839, "to get up such an organization here and on the other side, and to make such use of that already in operation, as will probably somewhat change the aspect of Canadian affairs. The material is before us if we choose to make use of it."

Early in February, Mr. Mackenzie moved from New York to Rochester, with his family, in express carriages. The last number of the *Gazette* issued in New York bore date January 26, and the next number made its appearance in Rochester, on the 23d of February.

About New Year, 1839, twelve Canadian prisoners, three of whom had been convicted of political offences and the other nine, transported by Sir George Arthur, without form of trial, arrived in England, on their way to Van Dieman's Land. All of them were under sentence of transportation for life. The transportation of the nine unconvicted prisoners had been ordered under authority of an act of the Legislature of Upper Canada, empowering the Lieutenant Governor to grant a pardon to all persons charged with treason, who should, previous to their arraignment, confess their guilt. He could attach to the pardon whatever condition he thought fit.

While in the custody of the jailer at Liverpool, a writ of *Habeas Corpus* was issued, and the prisoners were brought before the Courts of Queen's Bench and Exchequer, Westminster, and their discharge moved for. Their case excited much interest in England; and the most absurd opinions were expressed regarding them. "One person would ask," a journal of the day reported, "'How are they dressed?' and become utterly astonished, not to say disappointed, when he

found that they wore ordinary hats, coats, and breeches." It was decided that they were legally held in custody, and that the jailer of Liverpool was justified in assisting the captain of the vessel in which they had been brought to England.

Petitions were presented to the Crown impugning the legality of the sentences, and praying that they might not be carried into effect. The Courts of Queen's Bench and Exchequer had only decided one of the three questions which the cases involved. They had not decided whether the compulsory removal of the prisoners from England, or their compulsory detention in Van Dieman's Land, would be legal. In some of the cases, the Imperial Government was of opinion that Sir Francis Bond Head's proclamation of December 7, 1837, amounted to an amnesty of their offences. And it was inferred by those who attended the discussions before the courts, "that the judges entertained a very grave doubt whether the Government could lawfully proceed further against the prisoners," unless they could be brought to trial for treason in England.* "A trial," the Marquis of Normanby confessed, "must have resulted in their acquittal," because, among other reasons, such a prosecution would have been justly regarded with the utmost disfavor by the court and jury.

The group of prisoners, as given in the wood-cut, was taken for a London periodical while judgment was being delivered upon Mr. Hill's application for a rule *nisi*, for an attachment against the Liverpool jailer.

* Dispatch from the Marquis of Normanby to Sir George Arthur, Downing Street, July 23, 1839. See Appendix I for names of persons imprisoned for their participation in the revolt, in U. C.

At the extreme left of the group is Paul Bedford, a Canadian farmer, who resided in the London District. The second, Lenies Miller, was an American law-student, living at Rochester, at the time of the outbreak. William Reynolds was the third, an American from Philadelphia. The next was Finlay Malcolm, whose uncle of the same name had previously been a representative of the London District, in the Upper Canada Legislature. After him comes John G. Parker, who had been a storekeeper in Hamilton. Randal Wixon, the sixth in the group, was a schoolmaster and a Baptist minister. He had charge of *The Colonial Advocate*, it will be remembered, while Mr. Mackenzie was in England. Leonard Watson, the next, was living near Montgomery's at the time of the outbreak there. The eighth was Ira Anderson, at whose tavern political meetings had frequently been held. Then comes William Alves, a carpenter, who was working at Montgomery's hotel, at the time of the rebellion. James Brown, the tenth in the group, was a Canadian farmer from the London District. Robert Walker, the next, was a native of Scotland, a blacksmith by trade, and had emigrated to Canada some years before. James Grant, whose position is at the extreme right of the group, was a native of Upper Canada.

At this period General Handy, whom Bierce had superseded, some months before, in the command of the Army of the North-west, again appears upon the scene. He reappears in his old character, why or by what means does not appear. On the 1st of January, 1839, he directed General McLeod, in whom he had

great confidence, to proceed to the West to get up a military organization, and report his proceedings.* McLeod returned "3,250 efficient men ready for service when called for." The summary of his report, which I find in manuscript, is without date; but as McLeod was in Chicago, in execution of his mission, on the 14th of March, it was probably not before April or May when he made his return. At Coldwater, Missouri, were fifteen hundred Indians and five hundred volunteers, to be commanded by General J. B. Stewart, formerly of the United States Army; at Chicago five hundred and sixty Catholic Irish, to be commanded by A. Smith. Considering the size of Chicago, in 1839, it must have been a central point for the collection of these men, for they could not have been resident there. On the Desplain River were two hundred and fifty men, but whether they were Indians or whites is not stated. They must, I should think, have been Indians. They were to be commanded by Colonel W. R. Miller. At Kankakee, one hundred and forty French Canadians were ready to take the field under Francis Brodieau. On the line

* I find a manuscript copy of the order, which is in these terms:—

"HEADQUARTERS, Windsor, U. C., }
January 1, 1839. }

"GENERAL DONALD McLEOD—Sir: You will forthwith proceed to the West, as far as your judgment may dictate, and in your discretion you will organize and arrange in military order, and commission all such individuals as you may deem worthy, and give them such directions as in your judgment may seem expedient, and direct, if you receive no further orders, all the affairs connected with the Patriot cause according to the best of your judgment, until you are enabled to make your returns.

"I am, sir, with much respect, yours, &c.,

"H. S. HANDY,

"Commanding General, N. W. A. P."

of the Illinois and Fox Rivers were three hundred Canadians, Dutch, and Irish, who were to be commanded by Major Luddington.

From men General McLeod proceeds to material of war. About arms no difficulty was anticipated. Besides the men reported by McLeod, Handy mentioned a great many more whom he could raise. "Of the several tribes of Indians," he said, "in the States of Mississippi, Illinois, Missouri, and Wisconsin Territory, and west of the Mississippi River, I have a general knowledge, and for reasons hereafter to be explained, I have a social and friendly alliance with them." If he could raise sufficient means to clothe and pay them, he could get as many as he would be willing to receive. He then turns to Canada. "From the enrollment of the returns from the Upper Province during the last summer," I quote the exact words of the document, "which amounts to 38,000, I can safely calculate on 4,000 efficient and determined men." Indians, I presume, are meant here, as in the other cases; but I doubt very much whether the Canadian Indians could have been induced to fight against the government. Donations of lead sufficient for a campaign had been promised, and from twenty to forty three and four pounders were to be cast, near Detroit, for the use of Light Artillery. A gentleman in Detroit had nearly brought to perfection a cannon that would be able to fire from fifty to sixty times a minute. In spite of the Bank scheme, of which nothing is said by Handy, the greatest difficulty was confessed to be the want of money. "If I should succeed," he says, "in obtaining my antici-

pated means, "I can purchase from a factory thirty thousand stand of muskets, by paying one-fourth in advance and the remainder on credit." Handy and McLeod had, a few nights before, had a conference with a number of Indian chiefs, at Detroit, by whom they were assured that the services of their warriors could be relied upon, if the means of paying them could be found. As nothing came of these preliminaries of an extensive organization, it is probable that the movement collapsed for want of money.

On the 12th of March, Mr. Mackenzie issued a confidential circular, calling a special Convention "to be composed of Canadians, or persons connected with Canada, who are favorable to the attainment of its political independence, and the entire separation of its government from the political power of Great Britain," to be held at Rochester. About fifty persons attended this Convention, which met at six o'clock on the evening of the 21st, and concluded its sittings next day. An Association of Canadian Refugees was formed, of which Mr. Montgomery was appointed President, Mr. Mackenzie, Secretary, and Samuel Moulson, of Rochester, Treasurer. A confidential circular, dated "Office of the Canadian Association Rochester, March 22, 1839," was issued, in which questions were proposed and suggestions made. While the independence of Canada was the ultimate object aimed at, another object was to prevent all isolated or premature attempts, such as had recently failed at Ogdensburg and Windsor, from being made.* The

* The objects stated in the circular are subjoined:—

"Resolved, That a society be now constituted from among inhabitants of Ca-

notion of attempting to secure the independence of Canada, by means of invading parties from the States,

nada, who have left that country within the last two years, or who are refugees from thence, or emigrants from political causes, or who, having been born British subjects, are desirous of aiding the Canadians in the achievement of independence of British political power, and that said society be called 'the Canadian Association.'

"And we declare that the objects for which this Association is established, are—

"1. To aid in obtaining for the people of the North American Colonies the unrestricted power to choose their form of government, by means of conventions of delegates of their appointment, whose acts should afterwards obtain their concurrence; and to assist by all lawful means in removing from this northern continent the cruel yoke of the British government.

"2. To prevent as far as possible hasty and ill-planned expeditions or attacks upon parts of the Canadas, designed or begun by, or in the name of, Canadian refugees, or persons in Canada.

"3. To discountenance publicly and privately all burnings of private property in Canada, and all attempts on the life of any person untried and unconvicted of crime, however deserving of condemnation and death by the Canadians.

"4. To discountenance all attempts to invade the Canadas from these States. So long as the Government and Legislature of the Union shall consider this nation bound by treaties to abstain from such invasions.

"5. To act in concert with any benevolent and patriotic society or societies within this State or any of the United States, formed or to be formed to aid the Canadian people by all lawful means in obtaining relief from the British yoke, or who may be associated for the purpose of relieving those who have been forced in their hour of distress to seek refuge in this free country from the heavy hand of British tyranny.

"6. To convey to some central place, for the benefit of the laboring classes among the refugees, all the information that can be obtained as to the best situation for their obtaining temporary employment.

"7. * * * * *

"8. And lastly, to profit by the example of those who have recently exercised power in Canada, to imprison, murder, hang, rob, and banish worthy and estimable reformers, and kind and generous friends and neighbors, by exerting our whole individual and united influence, when Canada shall become free, to prevent the like cruel treatment of the Orangemen and loyalists. Our earnest desire is to see Canada free and happy, not to indulge in ourselves, or encourage in others, a revengeful and bitter spirit against our known or supposed enemies, after their power to oppress our country shall have been taken

was discarded. But the idea of Americans succoring the Canadians, in case they should themselves strike for independence was unquestionably included in the plan. This was shown by one of the questions asked in the circular :

“ In case the people of Canada shall give indications that they are determined to struggle, as the fathers of this republic struggled, against British oppression,” the question ran, “ by planting the standard of freedom on their own soil, and rallying round it, what help are they to expect from your society or neighborhood, in men and arms? Be pleased at the earliest possible day to send us a table with the following particulars :

“ Names of volunteers in the township of ——— who would be ready, in case five thousand men joined them on this side, to go into Canada, armed as the soldiers of freedom, as soon as the Canadians should have planted the standard on their own soil, rallied round it, and sought their assistance.

“ In the table state what arms each man has ; what means he has of transporting himself to a place of rendezvous ; and mark with a star the names of any who have served in the armies of this Union, England, or any other power, stating the rank held in the same.”

A similar Convention, under the name of an “ Agricultural Meeting,” had been held at Auburn, in Ja-

away, but to bring into operation the Christian rule, to do unto others as we would wish them to do towards us, were they in our situation or circumstances and we in theirs.”

The blank at the mystical number “seven” leaves room for the play of the imagination, and is suggestive of a project of Canadian independence.

nuary, at which Mr. Mackenzie was present and took a leading part. A special Executive Committee had been formed at that Convention, and the information sought in the circular issued from Rochester was to be laid before both the Auburn Executive Committee and the Rochester secret Special Committee. The Association was bound by no oath or affirmation, nor were its members under penalty to perform any obligation whatever.

These associations appear to have differed from that of the Cleveland in very essential particulars. The Rochester Association was composed of Canadian Refugees; the Cleveland Association was composed almost entirely of Americans. The former laid it down as a rule that the independence of the Canadas must first be asserted by the resident Canadians, and then, but not till then, extraneous assistance might be afforded them. Mr. Mackenzie claimed for the Rochester Association that it prevented small marauding expeditions being got up. At the same time, its members were preparing to second the efforts of the Canadians, should the standard of revolt be again raised within the Provinces. Certain it is that no expeditions were fitted out against Canada after this time, although there were extensive organizations in the border States, of which the object was to assist in bringing about the independence of Canada. There was formed an auxiliary Association of Canadian Refugees in Cincinnati, in which there were no Americans. Dr. Duncombe was connected with it. But the plan of uniting the Canadian refugees, instead of allowing Americans to form schemes for the "liberation" of

Canada, appears to have originated with Mr. Mackenzie, in January, 1839.

The circular of the Rochester Association does not appear to have elicited many replies, though there were refugees scattered all over the Union, from Maine to Florida. A few reply that they are under obligations to report to Lockport or elsewhere. A letter from Florida volunteers the statement that "in the South, all about the Gulf of Mexico, are hardy maritime people, bred from childhood to fishing, slaving, privateering, wrecking, and piracy, ready, if they can get commissions from any government, to cruise against the rich trade of England." These materials would be available, as privateers, the letter adds, if "we can only establish a fixed government [in Canada] for three weeks." On the 18th of May, the receipts of the society amounted to seventy-seven dollars, and it had not yet appointed any traveling agents.

In the month of May, General Handy wrote to Mr. Mackenzie, recommending, if the Rochester Association should second the project, "that a call be made for a general representation from the Provinces, and that a General Congress be formed, with the President, etc., of Canadians solely." His object was to have a united representation from both Provinces, that they should stand together in their united strength, under one banner, "as did the thirteen United States during the Revolution." The project, however, came to nothing.

CHAPTER XIII.

Trial of Mr. Mackenzie for setting on foot and providing Means in the United States for carrying on a Warlike Expedition against Canada—He memorializes the Judges to let him be put on his Trial—His Address to the Jury—Conviction—Is Sentenced to Eighteen Months' Imprisonment and to pay a fine of Ten Dollars for doing what the United States Marshal officially stated Nine-tenths of the People of Buffalo had done—From the Jail Door to his Upper Room—A Portrait of Ephraim Gilbert, the Jailer—Mr. Mackenzie's Treatment in Prison—He is Shot at through the Jail Window—Sickness and Despondency—Death of his Aged Mother—He gets out of Jail by a Stratagem to visit her Death-bed—Sees the Funeral from his Jail Window—Efforts for the Mitigation of his Punishment—He is ordered the Use of the Jail Yard after nearly Eleven Months' Close Confinement—Hundreds of Thousands petition for his Release—His Pardon.

WHEN Mr. Mackenzie was indicted, at Albany, in June, 1838, Mr. Badgley, by his instruction, informed the court that he would be ready for trial next day. He kept his word, and attended before the court; but Mr. District Attorney Benton was not ready. The court required him to be present again in October. In September, Mr. Benton assured him the trial would come on. Mr. Mackenzie again attended at Albany; when the District Attorney had found reasons, in a statute of Congress—could he previously have been ignorant of it?—for trying the case at Canandaigua, Ontario County. About a month before the June session of the Circuit Court, Mr. Benton informed Mr. Mackenzie that the case might come on on the very first

day of the session. The defendant attended at Canandaigua; and, his patience being exhausted, he, on the second day after the court opened, addressed a memorial to the judges expressing a desire to be allowed to be put upon trial on the charge preferred against him; he had never shrunk from a trial, and had no wish that it should be waived. He complained that the District Attorney had refused him a list of the witnesses on whose evidence the Grand Jury, at Albany, had found the indictment, and thought they ought to appear before the Petit Jury.

This memorial was presented on the 19th of June, 1839, and the trial commenced before the United States Circuit Court, on the next morning. It lasted two days. The recognizances, into which Mr. Mackenzie had entered, having expired some time before, and not having been renewed, his appearance before the court was a voluntary act. The judges were Messrs. Smith Thompson, of the United States Supreme Court, and Alfred Conklin, Circuit judge of the Northern Division of New York. The prosecution was conducted by Mr. N. S. Benton, United States District Attorney. Mr. Mackenzie, as had been his custom in cases of libel, undertook his own defence. No jurors were challenged.* The jury appears, however, to have been irregularly struck. The sheriff, a

* The Jurors who tried the case were all from Ontario, one of the counties forming the District, viz :

Dr. Otis Fuller, Naples, Foreman; Alfred Nichols, Naples; William Carter, E. Bloomfield; Andrew Rowley, Victor; Ezra Newton, Hopewell; Jacob Salpaugh, Manchester; D. Benton Pitts, Richmond; Seth Gates, Phelps; Moses Black, Seneca; James P. Stanton, Gorham; Valentine Stoddard, Canadice; Booth P. Fairchild, Canandaigua.

county judge, and the county clerk were required by the law of New York to be present at the drawing of juries; and several weeks' public notice of the day of drawing was required to be given. These conditions were not complied with in this case. A deputy of Marshal Garrow, who had been on a species of detective frontier service, drew the jury in the presence of the county clerk. Nor was the requisite notice given.

The indictment under a law of 1794, and another of 1818, never before put into execution,* charged the defendant with setting on foot a military enterprise, at Buffalo, to be carried on against Upper Canada, a part of the Queen's dominions, at a time when the United States were at peace with Her Majesty; with having provided the means for the prosecution of the expedition; and with having done all this within the dominion and territory, and against the peace, of the United States. It was stated in evidence, though afterwards denied by persons present, and in opposition to all the printed reports of the meetings at the time, that Mr. Mackenzie, at a meeting in the Buffalo theatre, in the winter of 1837, called upon the people of the States to imitate the example France had set them in their own case, of aiding a revolution in another country; that, at Black Rock, he had stated, in reference to four or five wagon loads of muskets on

* In the case of Texas there had, in 1835, been open enlistments; and Mr. Price, who held the office of District Attorney for Southern New York, then gave it as his opinion that the law of 1818 did not make it penal to combine or confederate to promote expeditions against Texas, a part of Mexico with the government of which the United States were at peace. Money was borrowed in Wall Street and stocks issued on the security of lands to be conquered.

their way to Navy Island, that they would be of great use to the Patriots;* and that on two several occasions, while the forces were on Navy Island, he was there; that a proclamation—a copy of which was exhibited—the incomplete proof sheets of which were sent to defendant to read, was printed at Buffalo and sent to Navy Island. After the evidence for the prosecution was concluded, Mr. Mackenzie addressed the jury for six hours. “His speech,” says a Rochester paper,† “was really a powerful effort. He enchained the audience, and at its conclusion, if a vote had been taken for his conviction or liberation, he would have had a strong vote in his favor.”

The averments in the indictment were certainly not all fully made out. The calling on the Americans for assistance was not setting on foot an expedition; and it was certainly not shown that Mr. Mackenzie furnished the means. He had lost everything he possessed by the outbreak in Canada; and after leaving Navy Island he had to pledge his gold watch to raise money to take him and Mrs. Mackenzie to Rochester. But the jury overlooked these refinements, and went upon the broad fact of his undoubted connection with the Navy Island expedition. He defended himself at great length and with much ability; often going, it may be, in the range of his arguments, beyond the limits usually taken by counsel in such cases. He

* These arms had been taken from the Court House at Buffalo; regarding which transaction, Mr. Mackenzie said in his address to the Jury: “I can and do solemnly declare before God and man, and I absolve all men from secresy in the matter, that I knew nothing of the intention of any person to take these arms.”

† *The Daily Democrat.*

showed what the French did for the Americans, in their revolution; what the Dutch did for the English; what the United States had done for, and in, Texas; and how they had fitted out an expedition to Greece, in violation of their treaty obligations with Turkey. "I think it hard," he said, "to be singled out and dragged here at this time; but as I require an asylum in your country, I am bound, and I do sincerely wish, to pay the utmost respect to your laws. Indeed it is admiration of your free institutions which, strange as it may seem, has brought me here to-day." He pointed out the anomaly of allowing their own citizens to escape, while he and one other foreigner were pounced upon. "The processes," he remarked, "were innumerable, the fees beyond precedent; the convictions may be—George Washington Case and William Lyon Mackenzie, aliens; but of Romans not one!"* "We are poor, exiles, refugees, wanderers in your land, little cared for, or indeed despised; and is not this misery enough? Must we be placed as felons and criminals before your people, and singled out for the cell, the victims of British interest, British influence, and British gold? Surely you will never say it! Such a verdict would consign me to a prison, and leave my children without bread; but to you it would be perpetual infamy. The civilized world would cry shame upon the base hypocrisy of such truculent policy." He seems to have felt that the freedom with which he dwelt on the partiality and inconsistency of the

* Bierce, who had led the Windsor expedition, was not molested, nor had other Americans who took a leading part in the Prescott expedition been brought to trial by the Federal Government, though their guilt was notorious

American Government, might not help his case; but that consideration did not restrain him. "I have been told," he remarked to the jury, "to say pleasant things to you, to use honied words, and avoid any topic that might touch the national pride or wound the national vanity; but as I did not stoop to flatter power in the few on the other side of the great lakes, it is not likely that I shall cringe to it here, as apparently vested in the many." He told them, very plainly, what had been their traditional policy, in regard to Canada.

"Why," he asked, "should there be deception used? You want Canada. I know it. I never yet talked seriously to an American who did not admit a desire to see European government removed from the North. Your verdict against me would blind nobody to your real views. Look back. In 1774 your Congress bade Canada revolt, and in 1775 Washington sent messengers to Nova Scotia for the like purpose. The same year he wrote to R. H. Lee, (see Washington's writings, pp. 173 and 174,) 'Would it not be politic to invite the Canadians to send members to Congress?' The committee of your Congress, at same time, wrote Gen. Schuyler, 'Congress desires you to exert your utmost endeavor to accede to a union with these colonies, and that they form from their parishes a provincial convention, and send delegates to this Congress.' Again, (p. 70,) General Washington writes Arnold and his officers, "to consider themselves as marching, not through the country of an enemy, but of our friends and brethren, for such the inhabitants of Canada have proved themselves to be in this unhappy contest.' And again,

(vol. 5, p. 389,) General Washington writes Landon Carter, 'The accounts you had received of the accession of Canada to the Union were premature. It is a measure much to be wished, and I believe would not be displeasing to the people; but, while Carleton remains among them, with three or four thousand regular troops, they dare not avow their sentiments, if they really are favorable, without a strong support. Your ideas of its importance to our political union coincide exactly with mine. If that country is not with us, from its proximity to the Eastern States, its intercourse and connection with numerous tribes of western Indians, its communion with them by water, and other local advantages, it will be at least a troublesome if not a dangerous neighbor to us; and ought, at all events, to be in the same interest and politics as the other States.' Why was this union not then consummated? Because they were treated as now. They assisted Gen. Montgomery with men, carriages, and provisions on all occasions. When he was before Quebec many parishes offered him their aid as volunteers, and were refused—the peasantry were ill-used and plundered of their property—and their religion made a mockery of—neither was a force sent to protect them. (Sparke's Washington, 3, p. 361, 2.) The generous Lafayette, too, writes John Jay, from Paris, 1787: 'I was nine years ago honored with the choice of Congress, to command an army into Canada, and never have I ceased to enjoy the prospect of its enfranchisement.' (Sparke's Diplom. Cor. 10, p. 64.) He had not changed his opinions in 1818, nor when here in 1824, as I know from his conversation with

myself. Had he lived to this day he would have been ashamed of and grieved at this prosecution, and so will many more of the best friends of free institutions. John Jay, to whom he wrote, was so impressed with the importance of the Canadas that he included them as a part of the States in his arrangements for the treaty of 1783. John Adams was for continuing the war with England after 1782, rather than not have the Canadas free. He writes Samuel Adams: 'As long as Great Britain shall have Canada, Nova Scotia, and the Floridas, so long will Great Britain be the enemy of the United States, let her disguise it as much as she will.' (Sparke's 10, p. 257.) And, (p. 316,) 'If peace should unhappily be made, leaving Canada, Nova Scotia, or the Floridas, or any of them, in her hands, jealousies and controversies will be perpetually arising.' And Benjamin Franklin was fully impressed with the deep importance of possessing the northern colonies. Congress, too, in the first constitution, unanimously offered free entrance to the delegates of Canada to Congress without even the formality of a vote of States. On the 8th of May, 1778, Congress addressed your country, and told the people to 'expect not peace while any corner in America is in the possession of your foes. You must drive them away from this land of promise, a land flowing with milk and honey. Your brethren at the extremities of the continent already implore your friendship and protection. It is your duty to grant their request. They hunger and thirst after liberty. Be it yours to dispense to them the heavenly gift. And what is there to prevent it?' In 1812, the one thing wanted

was Canada, and 'the means were provided' in the person of General Hull, whom you afterwards sentenced to be shot. Do the 18,000 soldiers, the flower of the English army, the pleasantries occurring daily on 3,000 miles of frontier, the territory connecting England with the Indians on your rear, the Maine boundary, and the St. Lawrence navigation, afford evidence that Canada has ceased to be to you an object of deep solicitude? And if not, what will the world say of the motives which dictated this prosecution?"*

The court admitted that the "mere meeting together of individuals, or the raising of money or the collection of arms," referred to by the defendant, "to send to Texas, was no violation of the law;" because these acts did not constitute the fitting out of an expedition. And Judge Thompson was careful to tell American citizens exactly how far they could go without overstepping the limits of the law. They could give their sympathy a practical shape by personally carrying to the oppressed money and supplies.† He added that,

* When the question of annexing Canada to the United States was raised, within the Province, in 1849, Mr. Mackenzie counted about a thousand United States newspapers, North and South, that gave a favorable response; while, if I recollect rightly, he told me he did not find one seriously opposed to the project.

† The same opinion had before been judicially given in the case of Texas. In 1835, the matter being brought before the Grand Jury of the Circuit Court of New York, they asked the opinion of the judge on the effect of the law of April 20th, 1818, and the reply was: "This section [612] applies only to military expeditions and enterprises to be carried on from the United States against any foreign power with which we are at peace. No person shall begin or set on foot or provide the means for any military expedition or enterprise, to be carried on from thence; that is, from the United States or the territory within their jurisdiction. Donations in money or any thing else to the inhabitants of Texas, to enable them to engage in a civil war with the sovereignty of Mexico, is in no sense beginning or setting on foot, or providing the means

in the case of Canada, he had no doubt, the "oppressions detailed by the defendant really existed or do exist, and that all the zeal he has displayed has been the zeal of a patriot." But the greater part of the judge's charge bore strongly against the defendant. He told the jury they must accept the law from him; and he told them to assume a great many things which had not been matter of proof, but which were to be accepted as facts, such as that Canada was a Province of England, and that Queen Victoria had succeeded to the rights of William IV.

At two o'clock the jury retired; at half past four they sent for a copy of the statutes of Congress, and at five they came into court with a verdict of "guilty." The defendant gave eighteen reasons why the sentence to be passed upon him should be merely nominal. The court had power to imprison for three years and levy a fine of \$3,000; but Judge Thompson took into consideration that this was the first trial under a law passed in 1794, that the defendant had evidently been ignorant of its provision, that the case involved no moral turpitude, and that the defendant had acted with a zeal which actuates men who, however mistaken, think they are right. The sentence was that he should be confined in the county jail of Monroe, for eighteen months, and pay a fine of ten dollars.

The irregularity in drafting the jury having been now discovered, Mr. Mackenzie brought it before the notice of the court, but Judge Conklin said it had

for a military expedition from the United States or their territory. The answer therefore to the question put by the Grand Jury is, that the facts do not amount to any offence under the 6th section of the act referred to."



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Canadian State Prisoners in England (from an illustration in the *London Sun*.)



been done under an order of the court. The exile, convicted of a breach of neutrality, in which Marshal Garrow had declared three-fourths of the people of Buffalo had been concerned, was ordered and conducted to jail by Deputy Marshal Macfarlane, and placed under close confinement. He was, however, permitted to go to his house, on the way. His wife's sister, Mrs. John McIntosh, and her husband, had come from Toronto to see him, for the first time since the rebellion at Toronto. When he went to the jail, accompanied by Mr. McIntosh, he expected that he would be allowed to return home for the night; but when he was once within the walls of the dungeon its doors were closed upon him.

The room assigned to Mr. Mackenzie was in the third story. To reach it you pass into a wide passage from the main entrance, on the ground floor through the office and a second door; thence through a door on the right leading to a flight of straight iron-shod stairs, with an iron railing on one side and a wall on the other; then, from this landing, by a ladder, through a trap door fastened by bar and lock, into a large room extending over one entire side of the prison. In this room, where criminals whose lives have been forfeited by their crimes are strangled, were dangling ropes and other hideous apparatus of death. You pass by an ascent of a few steps through a side door into a corridor, at the upper end of which, on the left side, was the room set apart for William Lyon Mackenzie. As you pass up the corridor you cannot fail to see, through the lattice-barred door, on the right, the crowd of abandoned women, who divide their time between

that apartment and the streets of Rochester. This was the only way in which the political prisoner could be reached by his family, or friends; and they were exposed, while on their passage through the jail, to the coarse jests of brutal men, and the ostentatious brutalities of still more brutal women.

Ephraim Gilbert, the jailer, had fallen into the exact niche which Nature designed him to fill. He was of low stature, and looked as if he had seen about fifty-five wilting summers and as many very hard winters. He had an exaggerated hook nose, fleshless, fallen-in cheeks, over which Nature seemed to have grudged him skin enough to spread. His sunken eyes, round and peering, combined with a long habit of watching, gave him a tiger-like appearance. His nails, long and filthy, resembled the claws of an animal perpetually digging in the dirt. His whole aspect was of that sinister cast which caused one to shrink from a contact with him. You felt, in regarding him, that, if cast into the sea, he would have more power to pollute it, than it would have to purify him.

For the first three months of his confinement, Mr. Mackenzie was shut up in a single room, with an iron door, which he was never once allowed to pass.

“ Within a cell—a barred and lonely cell—
He musing stands. Upon his limbs no chain
To wake him from his trance-like spell
And clanking, writhe his heart in deeper pain.

“ What was his crime? His country’s love!
For her he fain had freedom gained;
This was th’ offence. For well he strove—
And failing—freedom’s star too would.

"He sought a home among the bravely free,
He called for aid—for arms to crush the foe—
And asked if freedom's sons would tamely see
Their brothers sink beneath the victor's blow.

"For this he finds a cell!—a prisoner lone!
For this immured! he's torn from freedom's light!
And still he hopes—still speaks in trumpet tone
Against the ills which his own country blight."*

When the room in which he was placed had to undergo extensive repairs—being new floored and plastered, and getting a new door—he was allowed a little more freedom; but the moment the plaster was dry, he was again subjected to the same close confinement. Except his own family scarcely any friend was permitted to see him; though he was kept on constant exhibition by the jailer, crowds of strangers being allowed to feast their eyes upon a live rebel leader. Having a perhaps somewhat morbid fear that he might be poisoned if he accepted food at the hands of the jailer, his meals were regularly taken from his own house; and sometimes his children were refused admission to him. Besides, if he had accepted the jail fare, all he would have got would have been a preparation of Indian corn called "mush," and molasses and sour bread; and only two meals a day at that. On Sundays no one was ever allowed to visit him. During the first three months, he gave the jailers \$36 for permitting his friends to visit him; but when he had no more to give, they began to refuse admission to visitors they did not know; and if admitted they were sent away immediately after three o'clock P. M. Twice,

* These with three additional verses, dated Lockport, September 24th, 1839, were published October 5th, 1839, under the signature of "Hamish."

when he was sick, his physicians were refused admittance. Built on low marshy ground, the jail is surrounded with stagnant water during the greater part of the year; and as Mr. Mackenzie was particularly susceptible of miasmatic influence, he suffered severely from the debilitating effects of marsh fever, and was a good deal dispirited. Medical certificates that the close confinement had a very injurious effect on his health having been laid before the Board of Supervisors, they, without having any power in the matter, suggested that he should be permitted a little more exercise within the walls of the building. "The charges upon which Mr. Mackenzie was convicted," they said, "are not looked upon by the community as very venial nor in any way compromising his moral character, and therefore would frown down indignantly upon any extraordinary enforcement of official authority." But the jailer and the sheriff did not allow him as much freedom as the supervisors had suggested. From June to December, he was never once permitted to breath the free air. Unless Mrs. Mackenzie or some of his little children remained with him, he never saw a human being after dark; and when they wanted to go away, they would often have to remain an hour, knocking at the door, before any one would appear to let them out; and they, not unfrequently, suffered detention of greater or less duration—sometimes extending to an hour—at some of the stages from the outer door of the prison to his room. At the same time, there was laxity enough in some parts of the Monroe prison discipline. Criminals were allowed to leave the jail, to visit their families, to frequent

taverns, and roam about the town. Names and particulars were given in proof of this laxity of discipline.

On the 12th of October, 1839, the imprisoned fugitive had a narrow escape for his life. A little before noon, as he was standing at one of the windows, looking out to see whether a friend, Mr. Kennedy, was coming, a slug shot coming through one of the panes whizzed past him and penetrated the plaster on the opposite side of the room. He opened the window and asked the jailer's boy, who was outside, if he saw any one in the direction whence the shot must have come. The boy said he had not. "Who fired the shot," said Mr. Mackenzie, in a private letter, "I shall probably never know;" but, with the expectation of longevity, which he always entertained, he added that the escape afforded "another chance for old age, with the pains and penalties attached to it." The jailer, on inquiry, learned that a tall, stout man, with a gun in his hand and a dog by his side—having the appearance of a sportsman—had been seen beyond the mill-race, whence the shot must have come, about the time of the occurrence. A buckshot was found to have penetrated one of the adjoining windows, and several others struck the wall. At the time of the occurrence, the stone-breakers, who were usually in the jail-yard, were at dinner, and Mr. Mackenzie had only just approached the window. The blasting of rocks was going on in the vicinity, so that the discharge of a gun would not be likely to attract much attention. In Buffalo, in 1838, he had been warned that assassins were on his track, and a young man, about his size, a brother of

General Scott's secretary, had been assassinated under circumstances which gave rise to the suspicion that he had been mistaken for Mr. Mackenzie.

By this time the effects of the close confinement in the room of a jail, surrounded by miasma, had broken the luckless prisoner's health. He could not take the food which his children regularly carried to him, and medicine seemed to give no relief. His means were exhausted, and the approach of a gloomy winter inclined him to despair. He had depending on him a mother, ninety years of age, a wife in delicate health, and six helpless children. He became impressed with the idea that he could not survive fourteen months more of such confinement. The wet weather, which was setting in, rendered the visits of his family more difficult. Memorials, numerously signed, sent to the Executive for his release, remained unanswered. He had applied, through a friend, to be permitted the limits of the city, on giving security not to go beyond them, and been refused. He now, October 23, 1839, memorialized the President himself. He offered to give up the publication of his paper for the remaining fourteen months of his term, to go to any part of any State, whether north of Albany or south to New Orleans, or, as an alternative to continued imprisonment, even to accept transportation to Texas. "Better it were," he said, to President Van Buren, "at once to give me up to the power of England than thus destroy my constitution and deprive my helpless infants of protection." On the day that this memorial was written, the Secretary of State, Mr. Forsyth, instructed Marshal Garrow to see that no unnecessary severity was inflicted

on the prisoner, but the propositions in the memorial received no attention from the President. From the first the Secretary of State had approached the matter with the greatest reluctance, and would have avoided it altogether if he could.

When Mr. Mackenzie memorialized the President, he had become alarmed, from the accounts given him by Mrs. Mackenzie, for the health of one of his children. He was not permitted to go to see her. "My dear little girl," he said, "grew worse and worse; she was wasted to a skeleton; but I, who had watched over her in a former illness, and procured the best physicians and surgeons Toronto could afford, durst not even visit her. I had followed four of her sisters and a brother to the churchyard, but I might not look upon her. Messrs. Poinsett, Van Buren, and Forsyth, with Judges Conklin and Thompson, Marshal Garrow, and Sheriff Perrin, would not even bestow that privilege. One fine day she was carried, with the physician's consent, to the prison, and her mother and I watched her for forty-eight hours, but the jailer vexed us so that she had to be taken home again where she was soon in the utmost danger, and when her poor little sister comes to tell me how she is at dusk in the evening, the jailer will tell her to wait in the public place in the jail, perhaps for an hour or more, till supper comes, as he can't be put to the trouble of opening my cage twice."

By the middle of November, the memorials for the release of the political prisoner had been signed by between fifty and sixty thousand persons. The exertions made had procured him a larger space to walk

in; medicine had, at last, produced a salutary effect, and he was better in health. He was allowed to walk in the hall into which his room opened, and to take exercise six hours in the day, in the attic, which extended over the entire building.

In December, an event occurred which had a serious effect upon the captive exile's health and spirits. His aged mother, to whom he was devotedly attached, sickened and died. When, after making all the efforts he could to be allowed to go see her on her death-bed, he had come to the conclusion that he would not be permitted to do so, he addressed to her a farewell letter, full of the affection he had always borne towards her.* But when all efforts to obtain the desired

* It is without date, and is as follows:—

“MY DEAR MOTHER:—I entertain feelings of the deepest and most lasting gratitude to you for your kindness to me in youth, for your tender care over me, for the education you gave me, and for the many manifestations of sincere and undoubted affection you have shown towards me. The doctor tells me you are dying, and it is very hard that the cruel government people will not let me take a last farewell at your bed-side, but they will not do it. I, therefore, write these lines, which some friend will read to you, I hope, and bring me your answer, and any word you have to send me. Our last meeting here in the jail was a long and happy one. I did not think that it would be the last, but I fear the hard hearted Americans will grant no relief. The will of that Power to whom you have so fervently prayed for many a year be done. We must submit. If all the wealth of the world were mine, and it would carry me to your bedside, I would give it freely. But wealth I have none, and of justice there is but little here. I think we will before long get out of this difficulty; that I will be at liberty; that the family will again be comfortable; and sorrow fills my heart when I am told that you will not have your aged eyes comforted by the sight. When [I was] in London, you sent me several texts to comfort me. One of them, the Ninety-first Psalm, from first verse down to the ninth, will surely now be your great strength. If aught that I could do would spare you a little longer, how glad would I be to do it, for I cherish for you the warmest and most abiding affection; but if your hour is come, alas! I can do nothing. I will write again to-morrow.”

interview appeared to have failed—when the entreaties of Mrs. Mackenzie and the exertions of a number of prominent citizens of Rochester had proved fruitless—Mr. John Montgomery hit upon an expedient by which it was accomplished. He was keeping a hotel, and one of his boarders was in his debt. It was arranged that the boarder should be sued and Mr. Mackenzie brought out as a witness, under a writ of *Habeas Corpus ad respondendum*. Mr. Montgomery induced the State Attorney to give permission to hold the court in Mr. Mackenzie's house. At first, the sheriff flatly refused to obey the writ, but on consulting Judge Gardner he concluded that it was better to comply, and he and Ephraim, the jailer, accompanied Mr. Mackenzie to his house. The magistrate was not very punctual in arriving; he was very kind and very cold when he did arrive, and was some time before he got sufficiently warmed to open his court; and when it did open witnesses who had nothing particular to say were examined at considerable length. By this stratagem, Mr. Mackenzie's last interview with his aged and dying mother was protracted five or six hours. It was an affecting scene. The mother was leaving an only son, overwhelmed with calamities: failing health—for the ague had again returned upon him—increasing poverty; a helpless family dependent upon him; and a prison for his home. The jailer and the sheriff were waiting, in a room adjoining that into which the door of the bed-room opened, and the interview must come to a close. Summoning, for the last time, all her fortitude, the dying mother pronounced the last farewell, bidding her son trust in

God and fear not. "I asked her," he wrote a few days after, "if she had that comfort for the future which she expected in former years, and found that she was as happy in the prospect of a blessed eternity, as the most steadfast martyr of ancient days." The expectation of seeing him had kept her up for some days, and though she conversed freely while he was present, she never spoke after he had gone back to his dreary prison. Mr. Clark, the magistrate, who was father of "Grace Greenwood," wept like a child at what he had witnessed, on his return home.

From the windows of his dungeon, the political prisoner could see pass the funeral of his mother, which he was not permitted to attend. His agony was intense. While his mother was known to be dying, and at the time of her funeral, a friend remained with him in the prison. He never, till released, recovered from the effects of this blow occasioned by his mother's death.

Mr. Secretary Forsyth's instructions to Marshal Garrow had not the desired effect of producing any considerable mitigation of the severity to which the prisoner had been subjected. On the 14th of January, 1840, he memorialized Mr. Seward, Governor of the State of New York, on the subject. But the laws of the State gave that functionary no power to act in a matter which concerned the United States alone. "Nevertheless," said Governor Seward, in his reply of the 27th of the same month, "I acknowledge most freely that your offence being of a political character, I think it is to be regarded in a very different light from crimes involving moral turpitude, and that a

distinction ought to be made as far as possible between the treatment of persons convicted of political offences and those of the other class;" and he wrote to the Sheriff of Monroe County expressing this opinion and the desire that the prisoner's position might be made as comfortable as possible. Besides he did not fail to make it understood that, in his opinion, almost every thing depended, in such a case, upon "the kindness, humanity, and discretion of the sheriff and jailer."

This correspondence having been brought under the notice of the President, Mr. Forsyth was instructed, on the 20th February, 1840, to express to Marshal Garrow the willingness of the Chief Magistrate of the Republic "that Mr. Mackenzie should have the benefit of any indulgence, consistent with a just execution of the law, which is extended to persons undergoing punishment for analogous offences committed under the laws of the State." But these instructions produced no effect, and further complaints being made, the President found it necessary to rap the underlings on the knuckles for their inhumanity and disobedience of orders. Mr. Marshal Garrow gave himself not the least trouble on the subject. He neither visited the prison nor notified the sheriff or jailer of the instructions he had received. In the meantime, memorials for the release of the political prisoner, signed by immense numbers of persons, continued to reach the President; and Dr. Webster, of Geneva College, and Dr. Smiles, of Rochester, certified that the close confinement "has an injurious effect on his highly susceptible nervous system;" and that out-door exercise was absolutely necessary to sustain his general health.

It was under these circumstances, that the President's instructions to Marshal Garrow were repeated with something like a reprimand to that official for his remissness. "The directions you received from this department," said Mr. Secretary Forsyth, under date Washington, April 14, 1840, "were given in a spirit entirely favorable to the application of Mr. Mackenzie, and conformable to the views which the Governor of New York, and the friends who have been in correspondence with Mr. Mackenzie on the subject, have expressed in their letters to him." "It was sufficiently known," he adds, at this department, "that no cases entirely similar to that of Mr. Mackenzie, which grew out of an act of Federal legislation, could arise under the laws of the State of New York. The words 'analogous (not similar) offences' were therefore used, and intended to point to offences of a political character." "It was therefore to the manner of executing sentences incurred under the laws of the State for offences of that character that your instructions directed you to conform; and they were supposed to be sufficiently definite to convey that idea."

In what way it was customary to treat such prisoners, Mr. J. C. Spensor, in a letter which had found its way to the Department of State, described. Mr. Mackenzie's offence, Mr. Spensor showed, differed "from all offences under State laws in being political in its character, and in no respect involving the violation of private rights. It is in fact less heinous," he added, "than the misdemeanors recognized by our (the State) laws. The treatment of prisoners of that grade has always been more mild and lenient than

that of felons. The secure detention of their persons has been supposed to be the principal object of the law. They have accordingly been confined in the same kind of apartment usually assigned to imprisoned debtors; have been allowed the free exercise of the jail yard, and to take exercise in any part of the building. Their food has usually been supplied by themselves or their friends, and they have not been confined to the prison diet. In fine, every indulgence consistent with their safe keeping has, so far as my knowledge extends, been granted to them." The President, through Mr. Forsyth, instructed Marshal Garrow to make Mr. Spensor's statements his rule of action in Mr. Mackenzie's case.

Mr. Garrow took his time to attend to this second order. Eight days after Mr. Forsyth's letter had been written, he had paid no attention to it. On the 22nd April, the political prisoner thus described how the dreary months of confinement had been spent: "This is the eleventh month of my confinement. For about three months I never crossed the threshold of one solitary prison room for a day. For the last three months I have not been allowed to go down stairs, even inside, but am kept continually in the upper story of the building. The door of my apartment opens within five feet of the door of the female dungeon; and the women's cells are close by. The howling and yelling of twelve or eighteen unhappy creatures at all hours, night and day, I shall never forget. I am locked up, as usual, like the felons in Newgate." On the 25th April, the Sheriff ordered the jailer to allow

Mr. Mackenzie the use of the jail yard.* The rigor of his punishment was now abated, and Mr. Mackenzie was allowed to take exercise as prescribed in the Sheriff's order.

One day, observing a stranded log in the mill race, on one side of the grounds, he pushed it with a stick to set it free; and when it gave way, the force of the motion by which it was dislodged carried him down into the water. He was seen to go in; and instantly the rumor flew through the city that William Lyon Mackenzie had attempted to commit suicide. He had on a dressing gown which helped to buoy him up; and he got out without assistance, though not without difficulty.

The prisoner's birthday was duly celebrated by a number of friends, who dined with him in jail, on the 24th of March. Some of them, contrary to rule, smuggled in wine in their pockets; and towards the close the veritable Ephraim Gilbert was sent for. His health

* The document is a literary curiosity:

ROCHESTER, 25th April, 1840.

Ephraim Gilbert,

DEAR SIR.—You will Let William L Mackenzie have Exercise in the Yard or on the publick ground of the Jail Dureing such parts of the day time as you May deem nessary for the benefit of his health, and he is in no cas or under any pretence whatever to go beyound the Limmits or bounds of the publick ground Cornected with the Said Jail and he is not to be permitted to have any Conversation with the Prisoners which air at work in and about the said Yard or ground (a thing which I presume he will not have the *Least desire to do*) and you will also give him all other indulgences which you may think will be beneficial to his health, and with his safe keeping and that of all Prisoners confind in Said Jail, and in giving thos indulgences I am in hopes and, I think you may expect that Mr. Mackenzie will giv as little unnessary trouble as posable under the circumstances and the Construction of the Prison.

Yours Respectfully,

Darius Perrin, Sherrif of Monroe County.

was duly drunk, very much to his annoyance; but Gilbert could not well refuse to drink himself, and with a little pressure he melted so far as to take a forbidden glass. I find too a note dated January 1st, 1840, accompanying some "bottles of generous wine," sent the prisoner by a friend; not the least acceptable of the many communications he received, it may be presumed.*

The memorials to the President for the prisoner's release now had hundreds of thousands of signatures attached to them. Congress had also been petitioned on the subject. It is amusing to read the letters he received on the question of his pardon. One could not present a petition to Congress, because it would be an interference with the power of the President. Another had no objection to support a petition; but it would not do for him to bring forward a matter belonging to the members for Northern New York. One department of the government could not interfere, lest it should encroach on another and separate branch of the government. Some had peculiar notions about

* From Philadelphia, a friend wrote him :

"In the minority of James the Sixth, the Scottish Parliament was held (or fenced, in the language of that time) in the Tolbooth of Edinburgh, as a place of strength. In my time a portrait of that King hung in the great hall of that prison, and under, in gilt letters, the following verses as near as I can recollect :

"A prison is a place of care,
A place where none can thrive,
A touch-stone true to try a friend,
A grave to bury one alive;
Sometimes a place of right,
Sometimes a place of wrong,
Sometimes a place of rogues and thieves
And honest men among."

the pardoning power ; and a fellow refugee acted the part of the comforter by boldly declaring his opinion that, as a matter of principle, the President was bound to refuse to grant a pardon. "The President's position in this matter," a friend wrote from Washington, "is very peculiar, and such as you could hardly be expected to appreciate in all its bearings. In addition to the other obvious considerations that tie up his hands in the matter, there is the high constitutional indelicacy, if not impropriety, of the Executive stepping behind the Judiciary and supplanting its functions." Another friend assured him that the President had, at Saratoga, declared to different persons that he should not comply with the petitions for a pardon, unless desired by the British Government to release the prisoner. Did that government present such a request ? Or did the petitions become too numerous for Mr. Van Buren to resist ? The latter seems to be the true explanation ; for Mr. Mackenzie was afterwards informed, at Washington, that the President, adverse to a release to the last, felt himself unable to resist the demand of three hundred thousand petitioners. About the 12th of April, Mr. Forsyth told a friend that Mr. Mackenzie would soon be pardoned, but that it was necessary to keep the matter secret for a few days ; and on Sunday evening the 10th of May, 1840, he was permitted to bid adieu to the horrors of what he called the American Bastile.

CHAPTER XIV.

Bad Effects of Mackenzie's Imprisonment on his Business—The Southern States and Canada—Visit to Washington—The Democrats Friendly to the Canadian Patriots—Matured Opinion of Society in the States—Mackenzie's Last Gazette—Schemes for getting him into the Clutches of the Canadian Government—A Kidnapping Enterprise—Systematic Arrangement of his Papers—Asks to be Admitted to Practice at the Bar—Poverty—"The Volunteer"—The Gold Medal Melted—Mackenzie Opposed to New Frontier Movements—John S. Hogan and Dr. A. K. McKenzie enter into a Conspiracy to bring about a War between England and the United States—Mackenzie's (W. L.) House takes Fire—He regrets the attempt at Revolution in Canada—Removes to New York—Again denounces Frontier Movements—Is appointed Actuary of the New York Mechanics Institute—Commences "Sons of the Emerald Isle"—Resigns Situation of Actuary—Is nominated to an Inspectorship in the New York Custom House—Publishes a few Numbers of another Newspaper—Takes a large House on the strength of his Expectations—Receives an Appointment in the Archives of the New York Custom House—His Lives of Hoyt and Butler—"Life and Times of Martin Van Buren"—Private Opinion of the Effect of Annexing Canada to the States—Becomes Connected with the New York Tribune—Removes to Albany, and attends the Convention for Revising the State Constitution—Receives a generous offer from Mr. Bruce, and declines it—A Partial Amnesty excludes Mackenzie—Death of one of his daughters—Regrets the Rebellion—General Amnesty—Visits Canada—Rencounter with Col. Prince—Is burnt in Effigy in Kingston and Toronto—Riot—Removes with his Family to Canada—Is elected to the Legislative Assembly—In the House—His Hopeful Disposition—Traits of Character—The "Mackenzie Homestead"—Pecuniary Embarrassments—Sickness and Death.

THOUGH Mr. Mackenzie had exerted himself with all the energy his enfeebled strength would permit—though he had continued to conduct his newspaper and had compiled the *Caroline Almanac* which con-

tained matter enough, compressed in small type, to have made a volume of respectable dimensions—his business failed to thrive while he was imprisoned. Till the death of his mother, the family never suffered want; but after that event, the gaunt spectre sometimes threatened to enter the door. But, in this respect, there was still worse in store for them.

“The more I see of the South,” Mr. Mackenzie wrote privately ten days after his release; “the more I see it is our great enemy. It is southern slaveholding influence that keeps Cuba dependent, distracts Mexico, and enslaves Texas. That influence has crushed thus far the American feeling for Canada.” These views were confirmed on a more intimate acquaintance with the facts.

Shortly after his release from prison, Mr. Mackenzie revisited Washington and Philadelphia. At Washington, he had private interviews with a number of senators and leading men from all parts of the Union. “I heard much and saw much,” he wrote privately from Albany, on the 6th of July, on his way back, “and am sure that we of the North have nothing to hope from the party in power. Van Buren is with the South, the English importer and the capitalist, who rule this nation for their own advantage. There is much and well founded discontent among northern members—even of those who go with the party in power—and some of them were so plain as to wish trouble on the frontier—though I place no names here—while others hinted that the North might push matters to the length of a disunion from the slave-driving South.” He still hoped for the independence of Canada, to which he

was not permitted to return, and where rewards for his apprehension, schemes for his extradition, and plans to kidnap him were still kept alive; and as the result of his visit to Washington he felt, "on the whole, greatly encouraged." His health was much improved, and he was delighted with a day's visit to the Catskill Mountains.

But, every thing considered, Mr. Mackenzie regarded the Democratic party as most friendly to Canada; and on the 27th of August, he privately expressed that opinion to a friend. "They would, even if no war grew out of the Maine boundary question," he said, "be friendly to us—" advocates of Canadian independence—"and help us, while Webster and Clay, with the whole British party at their back, and old Black Cockade in the Presidential chair, would go all lengths with the English Ministry to crush us."

But the greater the exile's practical knowledge of the working of American institutions, the less was the admiration he had felt for them, when viewed from a distance. "Over three years' residence in the United States," he said in the last number of his *Gazette*, on the 23d of December, 1840, "and a closer observation of the condition of society here, have lessened my regrets at the results of the opposition raised to England in Canada, in 1837-8. I have beheld the American people give their dearest and most valued rights into the keeping of the worst enemies of free institutions; I have seen monopoly and slavery triumph at their popular elections, and witnessed with pain 'the bitter fruits of that speculative spirit of enterprise to which,'

as President Van Buren says in his late excellent Message, his 'countrymen are so liable, and upon which the lessons of experience are so unavailing;' and although the leaders of parties here may not say so to their followers, yet the conviction grows daily stronger in my mind that your brethren of this Union are rapidly hastening towards a state of society, in which President, Senate, and House of Representatives will fulfil the duties of King, Lords, and Commons, and the power of the community pass from the Democracy of numbers into the hands of an Aristocracy, not of noble ancestry and ancient lineage, but of monied monopolists, land-jobbers, and heartless politicians."

Soon after, the publication of the *Gazette* was closed, the press and types were sold; and the family subsisted on the proceeds, so long as they lasted. The injury inflicted on the publication by the absence of Mr. Mackenzie's personal superintendence, while in prison, was never overcome; and the paper ceased to be profitable before it ceased to exist.

The Canadian authorities resorted to every possible expedient to get Mr. Mackenzie in their power, for the purpose of strangling him. Rewards for his apprehension were held out as a premium to kidnappers; and his personal and political enemies clubbed their dollars into blood money to make the temptation strong enough for some vile man-catcher to undertake the detestable speculation. In the winter of 1838, a Canadian judge wrote to an American judge, suggesting the "exchange" of Mackenzie for a num-

ber of Prescott and Windsor prisoners.* The offer embraced a hundred for one; and while the men to be given up were guilty of invading Canada, Mr. Mackenzie, for whom it was proposed to exchange them, had had no connection whatever with the expeditions. Coming from an old political enemy like Judge Jones, the offer had all the appearance of a revengeful thirst for the blood of a fallen foe. And it surely did not become Judge Jones to drag the *ermine* through the dirty waters of insurrectionary strife. The attempt to obtain possession of a political refugee, who had sought an asylum in another country, will forever remain a blot upon his memory.

There can be no question that the suggestion made by Judge Jones had the authority of the Colonial Executive; because a similar proposition was afterwards put forth, in the name of the Executive Council. In a report to Sir George Arthur, dated Feb. 4, 1839, the Executive Council, presided over by Mr. Sullivan, said: "Were it positively understood that such men as Johnson, Birge, Bierce [Bierce], and Mackenzie would be seized and delivered up, as having violated the refuge afforded them, there would be no objection to the release of hundreds of obscure criminals; because we might be assured that if certain punishment awaited their leaders, notwithstanding their escape across the border, [at least half of them were Americans and never lived in Canada,] the whole conspiracy would fall to the ground for want of leaders." So far as it relates to Mr. Mackenzie, this is precisely the same as if Louis Napoleon were to expect England to

* Judge Jones to Judge Fine, of Ogdensburg.

give up French political refugees, who had escaped to that country. With American citizens who had invaded Canada, in time of peace, the case was different; the duty of the Federal Government was not to hand over these leaders, but to enforce against them its own laws for the maintenance of neutrality. If this had been done, the prosecution of Mr. Mackenzie would have ceased to wear a partial aspect.

Sir George Arthur approved of the project for exchanging prisoners for refugees; and the authorities of the State of New York were sounded on the subject. Mr. W. H. Griffin, Post-office Surveyor, went upon this odious mission. Not finding Mr. Seward at Albany, he conversed with Mr. J. A. Spensor on the subject. Mr. Spensor told him that the principal obstacle to the proposed arrangement was the public indignation its execution would excite; and he suggested that, under the circumstances, it would be better to kidnap the refugees, adding an assurance that, if this were done, the State authorities—Mr. Seward and the rest—would not be disposed to regard the act as a breach of amity.*

Why should such a hint not be improved? Had Canada no bloodhounds ready to snatch Sir George Arthur's four thousand dollars by kidnapping Mackenzie? It seemed not; for a private subscription of two thousand dollars more, set on foot by one of the exile's old political opponents, had to be added. And now surely here is temptation enough in the shape of blood money, to turn mercenary men into kidnappers!

* Letter from Mr. Griffin to the Hon. R. N. Tucker, dated Gananoque, U. C., May 14, 1839

On the 14th November, 1840, Mr. Mackenzie received from several respectable citizens of Rochester warning that an attempt would be made in a day or two to seize him, drag him on board the steamer Gore, and carry him off to Canada.* Among them was Mr. Talman, who called three times at Mr. Mackenzie's house that day without finding him. The last time, he left word that Mr. Mackenzie should, by no means, leave his house after dark that night. But this warning was not heeded: not arriving till after night, he went to see Mr. Talman. The substance of the information, received from various sources, was the same. A guard was placed upon his house.

The matter being brought before the attention of the authorities, was made a subject of judicial investigation before Mr. Wheeler, on the 20th of Nov., 1840. Several witnesses were examined; the principal of whom, Mr. Wells, stated the result of a conversation he had had with Mr. James Cameron, son-in-law of the late Mr. Drean, of Toronto, and brother-in-law of Mayor Powell, of that place, and sometime clerk in the Bank of British America, at the Rochester House seven years before. Mr. Cameron commenced the conversation

* Some warned him verbally, and one, Mr. Wells, one of the publishers of the *Rochester Daily Whig*, in writing. He said: "Wm. L. Mackenzie—Sir:—I take the liberty of informing you that a plan is in contemplation to carry you to Toronto. It is this: The steamboat Gore [Capt. Thomas Dick] will be in this port in a day or two. She is to be at the wharf at the mouth of the river, with steam up, &c., to surprise and muffle your face, and put you in a carriage which will be in waiting, and take you to the boat. A British officer is in this place, and has disclosed the circumstances to me. Although we have had some personal difference, I cannot consent to have you kidnapped. Be on your guard.

"Nov. 14, 1840.

W. A. Wells"

by introducing the subject of the Canadian troubles, and asked Mr. Wells whether he had not had some difficulty with Mr. Mackenzie that had created an unfriendly feeling between them. Receiving a reply in the affirmative, Cameron, thinking he might safely trust a person who was on such terms with the object of the kidnappers' desire, then unfolded to him the scheme. Mr. Mackenzie was to be decoyed to the lower part of the city, by an invitation from one whom he regarded as a friend; he was then to be seized by two powerful men, a handkerchief tied round his mouth, and dragged into a carriage, with a pistol pointing at his face under a threat that his brains would be blown out if he made a noise. In this state he was to be taken on board the steamer Gore, at Frankfort—the mouth of the Genesee River—which was to be ready waiting with steam up. In her next trip she was to bring over another person, a Scottish military officer, who was to assist in the kidnapping. All this was to be done with the consent of the persons in charge of the steamer. Cameron mentioned that, in addition to the reward offered by the Canadian government for the apprehension of Mackenzie, he expected to get a Colonial appointment. Cameron's counsel did not cross-examine the witnesses, but took a technical exception to the form of the warrant. The evidence was deemed sufficient to justify the magistrate in binding Cameron over to answer the charge, but the case was quashed when it came before the grand jury.

Cameron afterwards pretended that he had hoaxed Wells in the conversation at the Rochester House;

but there is little reason to accept so shallow a pretence. According to his account he was somewhat "oblivious" of what had occurred at the interview with Wells; and men in their cups are very much in the habit of blurting out truth which at other times they would conceal. The idea of kidnapping Mackenzie was not a new one. A long train of preliminaries pointed to precisely such an enterprise as that in which Cameron told Wells he was engaged. Besides, the steamer left the upper wharf that night at an unusual hour, and without ringing her bell. At the mouth of the river, seven miles below the head of the Genesee navigation, where he was to have been put on board, she waited till near midnight. These are circumstances of suspicion, too strong to be neutralized by the action of the grand jury on the case.

In the winter of 1840-1, Mr. Mackenzie commenced that systematic arrangement of his papers to which he always afterwards adhered, and which has been sufficiently described in the introduction to this work.

About a month before the last number of his *Gazette* was issued, Mr. Mackenzie memorialized the Judges of the Court of Common Pleas, in the county of Monroe, to be allowed to be admitted to practice at the bar. Fifteen barristers, in a separate memorial, backed up the application. The applicant was willing to submit to the usual examination prescribed for barristers, but a few days after the memorial had been taken into consideration, Judge Dayton wrote to inform him that it had been unanimously refused by the court. The refusal appears to have proceeded upon the ground of his being an alien. But this did

not prevent him, a few months later, about March, 1841, from notifying the public that William Lyon Mackenzie's Law Office was to be found in an upper room in St. Paul Street. It was a last effort of despair, and came to nothing.

The clouds of adversity gathered thick and gloomily over the exile's head. Bereft of his property by an insurrection, in which he had borne a leading part, he had known what it was to commence the world anew among strangers. A long imprisonment had ruined the precarious profession of a journalist, who appealed to the public sympathies only upon a single subject. He found himself without occupation, and with only very limited and uncertain means of subsistence. At this period, it would frequently happen that, for twenty-four hours on a stretch, the family had not a morsel of food, and neither light nor fire. Yet no father could be more assiduous in his endeavors to provide for his family. After a day and night's enforced fasting, he would go shivering forth in the morning's cold, hoping to collect a small sum due to him, or, failing in that, to borrow from a friend the means to purchase bread for his famishing children. Many a time, when all else failed, did his ever faithful friend, John Montgomery, divide with him his last sixpence, or his last meal. The younger children never ceased to cry for food, while those more advanced in years suffered in silence. What could the father do? Whither turn for succor? He tried another newspaper—*The Volunteer*—of which the first copy appeared on the 17th of April, 1841, and the last on the 10th of May, 1842. During that period only nineteen numbers were issued.

They were printed when the means to print them could be obtained. This attempt to revive a general interest in the Canada question failed, and without that interest a paper devoted to it could not live.

In the summer of 1841, the massive gold medal, the gift of the electors of York, was melted into an ingot. In May, 1838, a loan of one hundred and ten dollars had been obtained upon it, in New York, and on the 23d of June, 1841, Mr. Mackenzie was notified that the ingot had realized \$146 13, after deducting the expense of melting and assaying. The amount of the loan with interest was \$129 60, and the balance coming to him was \$16 53. The intelligence of the melting of the medal reached him on the very day when silver spoons had been given to the landlord to make up the amount of a quarter's house rent! The day to redeem never came. During the winter of 1841-2, the exile and his family drank the cup of poverty to the dregs. One night, when the younger children were crying for food, he went to the cupboard to see whether there was nothing to be found there. All he got was a book, of which, by the light of the feeble embers that formed the only light and the only fire, he discovered that the title was "The Dark Ages," at which he could not refrain from indulging in a hearty laugh, after which the family went supperless and breakfastless to bed.

During this winter Mr. Mackenzie expressed, in decided terms, in private letters to friends, his strong disapproval of all projected movements against Canada. Writing to his eldest son, on Christmas day, he said: "We have stories here about boats to be captured—

eagles—Gen. ——— hordes from Kentucky.—balls casting at Akron, and what not. I'm glad I'm free of it all; it will end in picking some folks' pockets—it may end Windsor or Prescott fashion, but can do no great good." It appears from the letters of other refugees to him that he had been long inactive. In August, 1840, one of them reproached him: "You will not propose any plan yourself, nor adopt those that are formed" by others.

In the beginning of the year 1842, Lord Ashburton's intended visit to the United States was a subject of conversation. On its success depended the settlement of some very delicate questions. From the North-east boundary difficulty and the destruction of the *Caroline*, many had anticipated—some hoped, some feared—war. The chances of an international quarrel were likely soon to pass away. While they lasted, John Sherdan Hogan and Dr. A. K. McKenzie entered into a conspiracy to improve them. Hogan was to be arrested as a party to the *Caroline* outrage; and, after his committal, he was to give a history of the whole affair, in an address to the public, admit himself to have been a participator, and throw himself on the protection of the British Government. This scheme was developed in a letter written by Dr. Mackenzie to Wm. Lyon Mackenzie, and dated Lockport, February 15, 1842. It was carried by Hogan himself to Rochester. W. L. Mackenzie replied that he would be no party to the scheme; that an attempt to execute it would be dangerous, as Hogan would probably be maltreated by the mob. But Hogan appears to have got alarmed at a scheme which was not

without danger to him. He wrote to Dr. Mackenzie that he was going to get married in the following June; and that if it were supposed that he had anything to do with the Caroline affair, his prospects would be entirely ruined. He therefore appealed to Dr. McKenzie, as a proof of his friendship, to send him a pair of good pistols, which he promised to return when he got to Canada. He was arrested, in spite of this protest; but he was discharged after the case had undergone a judicial investigation.

Mr. Mackenzie's pecuniary circumstances experienced no improvement; and to make things worse, his house took fire in March, and a portion of his furniture was burnt. The family suffered much from sickness, the result of pinching want. "The more I see of this country," he wrote privately to his son, under date March 15, 1842, "the more do I regret the attempt at revolution at Toronto and St. Charles."

And now, despairing of any measure of success in Rochester, where he had spent three and a half weary years, the repentant outlaw turned his regards once more towards New York. On the 10th June, 1842, he left with his family for the latter city in the canal line boat Henry Allan, and with two dollars and fifty cents in his pocket. For the thirty-nine dollars passage money he obtained credit from Mr. John Allan, from whom he received the kindest treatment; and the night before starting he obtained a loan of twelve dollars from Mr. Henry Allan. Without this, though he had borrowed ten dollars from Mr. John Fisk, he would have been unable to move. "I feel," he wrote to his son, "it very hard to be thus forced from place to

place, at my time of life; but poverty and age are a conjunction in my lot, and it's no use to fret." He states very plainly the cause of his removal: "After an utterly ineffectual attempt to live here with my family," he says, "I'm starved out." In the same letter he denounces, in strong terms, the movement on the frontier for a new raid upon Canada. "Some new scheme of plundering the gulls in the wind!" he says. "An attack upon (!!!), and much more, never to be done, by way of raising the wind. I presume — could give you the history of it if he chose. He has been at Lewiston, but I have not heard from him. Of course it is base humbug; but — and all such have ever found gulls. It may injure the Van Dieman's Land prisoners."

After his arrival at New York, the unfortunate refugee spent most of his time in collecting some of his old debts and devising ways and means to live, till an influential political friend—Mr. Ewbank, I believe—obtained for him the situation of Actuary of the New York Mechanics' Institute. He refused situations in two or three newspaper offices, because he would not occupy a subordinate position on the press; and this disposition to be every thing or nothing was no bad illustration of his character. In his new office, Professor Gale, of Columbia College, had been his predecessor. He could have gone into business; but declined to do so, because the chances of success were not promising. "I could have got credit," he wrote to his son James; "but a store here, commenced in times like these, on other men's means, with high house and store rents and great scarcity of money among the people, would

have proved a source of embarrassment." He was pleased with his new office. "The prospect brightens," he said, "and I may enjoy a little ease in my old days;" a hope which was never realized. His emoluments were chiefly derived from fees; and these were paid with so little punctuality or honesty, that his new employment proved but a slight mitigation of his distress. Among the fragmentary "Reminiscences" he has left, I find the following note, under date September 8th, 1842. "My daughter Janet's birthday; aged thirteen. When I came home in the evening, we had no bread—took a cup of tea without it; and Helen, to comfort us, said it was no better on the evening of my own birthday, the 12th of March, 1842." At the close of the year, however, he considered himself "very comfortably settled." "I was much behind, when I got into the office," he wrote privately, December 24th, "but during the year for which I am engaged, I have no doubt that I shall place myself and family once more in comfortable circumstances, the more gratifying as we have suffered much poverty and long continued privation." Such was his pride in his children, his ideas of duty, and his appreciation of the advantages of education, that he continued to keep them at good schools.

While in this situation, Mr. Mackenzie commenced a work entitled "*The Sons of the Emerald Isle, or Lives of One Thousand Remarkable Irishmen.*" On the 3d of February, 1844, he made application for a copyright, and entered into a written agreement with Burgess, Stringer & Co., of New York, to become the publishers. In July, 1843, he speaks of having nearly five hundred

of the biographical sketches ready ; but only two numbers—there were to have been eight or ten in all, averaging fifty pages each—were published. The subjects selected were Irish patriots or their descendants ; and the concise sketches contain a multitude of facts and much matter of novel character. He had access to sixteen thousand old American newspapers, extending over a period of forty years, from which he was enabled to study the character of the men and the measures of that time. He wrote to his son James, after the first two numbers were out, that the work would be immensely profitable ; but want of means seems to have prevented his continuing it.

At the end of the year, he gave up his office in the Mechanics' Institute, retiring with an unanimous approval of his conduct. Owing to the remissness of the members in paying, it turned out a poor place ; and in January, 1844, he declares that he has had as hard times in New York as he ever had in Rochester. Having been introduced to the son of President Tyler, Mr. Mackenzie was offered an Inspectorship of Customs, at New York, at \$1,100 a year ; but when the nomination was sent to Washington, it was rejected by the Secretary of the Treasury, because the nominee was a British outlaw and had attacked the late President. He had issued three numbers of a new paper, called the *New York Examiner*, but he gave it up on his nomination to this office. Tyler wrote him that he might have any other office in his gift of equivalent value. Always anxious to cloak his poverty under a genteel exterior, he now, on the strength of the expectations thus raised, moved to a large house in William Street, at a rent of

\$450 a year. The same feeling urged him to the greatest sacrifices to keep his family genteely dressed; and if they starved they made a presentable appearance. How little did the outside world know of the sufferings of those tastefully dressed delicate children! How cheerless that large house, with its big rooms and marble mantles to the very casement! The son of the President visits the outlaw in mid-winter. As the only fire is in the cooking stove, he must be entertained in a fine large room, furnished in a style a little above the common shabby genteel. The room where the solitary fire is, serves for study, nursery, and kitchen; and there so much space in that large house! In that room, the author of *The Sons of the Emerald Isle* is sketching his portraits amid impediments of culinary occupations and crying babies. A servant is kept; and with singular devotion that true hearted Irish girl is content to starve with the rest. If any thing is going, she will get more than her share; but if there is nothing, she is never heard to complain. Late rising, as a means of extracting from the blankets—almost the solitary remnants of the Canada wreck—a warmth which want of fuel prevents being generated in a more regular way, is indulged in. When the promised situation comes, it is in the shape of a temporary clerkship, in the archives office of the New York Custom House, with a salary of only \$700 a year. Out of this it was impossible to pay \$450 rent; and in the beginning of July, it became necessary to move to Williamsburg, across the East River, to a house renting at \$250 a year.

While engaged in the Custom House, it became Mr.

Mackenzie's duty to read a correspondence between Messrs. Jesse Hoyt and Benjamin Franklin Butler, of a very extraordinary character. Hoyt had been collector of customs at New York, and in that capacity had embezzled \$250,000. Mr. Mackenzie, thinking that, in his haste to secure the money, Hoyt had forgotten that he had left certain private letters in the public archives, induced Mr. Henry Ogden to call upon him and ask him to take them away. Hoyt replied that he had already taken all he wanted. By permission of the collector Mr. Mackenzie copied the letters; and he had official authority to do what he pleased with them. He sent copies of several of these letters to President Polk; and the result of their perusal was to prevent the appointment of Coddington to the collectorship of New York. Mr. Mackenzie then, on the 1st of June, resigned his office; and in 1845 published *The Lives and Opinions of Benjamin Franklin Butler, United States District Attorney for the Southern District of New York, and Jesse Hoyt, Counsellor at Law, formerly Collector of Customs for the Port of New York*; a compact octavo volume of one hundred and fifty-two pages. In a very short time, fifty thousand copies were sold; when an injunction was obtained from the court of Chancery, to restrain the further publication of the work. The copies went up to double the previous price. The injunction was granted at the instance of Mr. Hoyt, and on a complaint that three of his letters were comprised in the publication. While the publishers made a very large profit on the book, the author, to avoid all ground for the imputation of improper motives in the publication,

refused to take any remuneration for his labor ; though he lived on borrowed money for several months while he was preparing the work for press. He took out a copyright and assigned it without consideration to the publishers. Chancellor Walworth, on appeal, dissolved the injunction granted by the Vice Chancellor, after the lapse of two and a half years ; deciding that the author had a right of property in the book, and that a Court of Equity had no power to restrain its publication. Unsuccessful attempts were, at different times, made before grand juries to indict the author for the use he made of these letters, but without avail. No new edition of the work was given to an eager public by the publishers, Cook and Co., of Boston.

In 1846, Mr. Mackenzie published *The Life and Times of Martin Van Buren*, a closely printed octavo volume of three hundred and eight pages. It is enriched by contributions from the bundle of letters left by Mr. Hoyt in the New York Custom House ; though a large portion of the materials are drawn from other sources. Of this work he sold the copyright to Mr. Wm. Taylor of New York for \$1,000, of which \$400 was paid at the time of the agreement, and the remainder when the copy was completed. The sale of copyright is dated Nov. 25, 1845, and the book was to be completed by about the 15th of January following. This work dealt Van Buren his political death blow. He never rose again. While in prison, at Rochester, the author was severe in his comments on Van Buren's administration ; but after his release all this was forgotten, and at different places he made speeches, in

public, in favor of the administration. Before the next Presidential election, he wrote privately to a friend: "If Van Buren fails being elected, God help us exiles! we shall have a poor time of it." It was the discovery of the damning evidence, in the Hoyt and Butler papers, that caused Mr. Mackenzie to alter his opinion of Van Buren and to change his course towards him.

During eight years, Mr. Mackenzie's political opinions had undergone a great change. When the Oregon difficulty threatened war, "I fervently pray," he said in a private letter to his son, January 9, 1846, "that we may escape it, its burthens, its massacres, its enormities, and its devastations. That England and America should fight about a desert wilderness, or empty country beyond the Rocky Mountains, would only be wicked and barbarous. It is true the fight might be for Oregon as a pretext, but for the Canadas in reality; and even whether these—much as I once desired such a contest—would be improved by the grip of our harpy financiers I very much doubt; while the only refuge of the flying African from real oppression, in its most odious form, would be cut off."

In the course of this year, Mr. Mackenzie became connected with the *New York Tribune*, of whose editor, Mr. Greeley, he continued to the day of his death to entertain the highest opinion. On the 1st May, he arrived in Albany, for the purpose of attending the convention to revise the State Constitution. He daily wrote to *The Tribune* a long letter on the proceedings of the convention. Commencing in the early part of June, the convention continued its sittings till the 9th of

October. Many suggestions made by Mr. Mackenzie were adopted and embodied in the amended constitution. I recollect him telling me that it was at his suggestion that the judges were made elective; and when I asked him if he did not hope to be forgiven for introducing so dangerous a principle, he defended its working, and contended that popular election was preferable to the Canadian mode of appointing judges. This could not have been over three years before his death. Almost immediately after arriving in Albany seven of the family took the smallpox; but they all recovered.

"I am more of a misanthrope than I once was," he wrote privately, Oct. 12, 1846; "I never attend or speak at public meetings, and creep as it were through the afternoon of life." But in some respects times with him had improved. He had plenty of offers of literary employment. He had found a real friend in Greeley; and he received from Mr. George Bruce, the great type founder of New York, a very tempting offer. The large printing establishment of Percy & Reid, New York, had been sold at sheriff's sale; and Mr. Bruce had become the purchaser at \$10,000. He offered it to Mr. Mackenzie on a credit of ten years, with means to carry on the business. The offer was gratefully received, but was rejected, contrary to the advice of his family and friends, principally because the business would have required a partner, and Mr. Mackenzie disliked partnerships. He remained in Albany one year; in the latter part of which he performed the duties of correspondent in the Legislative Assembly for *The Tribune*.

On the 5th March, he wrote to his son, from Albany, referring to past experience: "You never can, never will, know what I have borne and suffered, in many ways. Yet I am here, healthy and (somewhat) hopeful, though poor and within a week of fifty-two." And he adds: "After what I have seen here, I frankly confess to you that, had I passed nine years in the United States before, instead of after, the outbreak, I am very sure I would have been the last man in America to be engaged in it."

When he returned to New York, Mr. Mackenzie continued his connection with *The Tribune*, till Mr. McElrath, one of the partners in the establishment, expressed some dissatisfaction with his writings, and he left with the intention of never returning. This was early in April, 1848. He spent some time in the composition of a work on British America, which he never completed. He always continued on good terms with Mr. Greeley; and in October, 1848, he agreed to attend the next session of Congress as correspondent of *The Tribune*. But he did not leave New York till about the New Year.

By the end of the year 1843, an amnesty—not general but very comprehensive—had enabled numerous political exiles to return to Canada. But while Papineau, Rolph, Duncombe, and O'Callagan were pardoned, Mackenzie was still proscribed. Mr. Hume wrote him, stating that the exclusion arose from the belief entertained by the English Ministry that the origin of the rebellion was due to him. Three years after, Mr. Isaac Buchanan wrote to Sir Robert Peel and Lord Palmerston, begging that they would have

Mr. Mackenzie included in the amnesty. The reply was that, before this would be done, the Canadian Ministry must recommend the measure. But the latter were adverse to such a course, and to them alone his continued exclusion from Canada was owing. The remembrance of this circumstance probably infused some gall into his opposition to the men who composed this ministry after his return to Canada. In 1848, the Canadian Assembly unanimously addressed the Queen to grant a general amnesty of all political offences.

On the 17th of July of this year, his daughter Margaret died after a long and painful illness. Next year, February 3d, 1849, Mr. Mackenzie addressed a communication to Earl Grey, at the Colonial Office, containing some remarkable confessions; the good faith of which is sufficiently guaranteed by numerous statements in private letters, some examples of which have already been given. From this communication I quote the following remarkable extracts :

“A course of careful observation, during the last eleven years, has fully satisfied me, that, had the violent movements in which I and many others were engaged on both sides of the Niagara proved successful, that success would have deeply injured the people of Canada, whom I then believed I was serving at great risks; that it would have deprived millions, perhaps, of our own countrymen in Europe, of a home upon this continent, except upon conditions which, though many hundreds of thousands of immigrants have been constrained to accept them, are of an exceedingly onerous and degrading character. I have

long been sensible of the errors committed during that period to which the intended amnesty applies. No punishment that power could inflict or nature sustain, would have equaled the regrets I have felt on account of much that I did, said, wrote, and published; but the past cannot be recalled." * * * "There is not a living man on this Continent who more sincerely desires that British Government in Canada may long continue, and give a home and a welcome to the old countrymen than myself. Did I say so, or ask an amnesty, seven or eight years ago, till under the convictions of more recent experience? No; I studied earnestly the workings of the institutions before me, and the manners of the people, and looked at what had been done, until few men, even natives, had been better schooled. The result is—not a desire to attain power and influence here—but to help, if I can, and all I can, the country of my birth."

Pressed by Mr Hume and others, the Canadian Government, in 1849, originated a measure for a complete amnesty of all offences arising out of the events of 1837–8. Mackenzie had for some time been the last exile. It passed unanimously in both Houses, and in the name of the Queen, Lord Elgin, as Governor General, gave it the Royal assent, on the 1st of February, 1849. Immediately on receiving this intelligence, Mr. Mackenzie resolved to return to Canada permanently. But after so long an absence, he was in some doubts as to how he would be received there. In this state of uncertainty, he resolved to try the effect of a personal visit.

Before visiting Toronto, the scene of his former ex-

ertions and his future home, he called at Montreal, then the seat of the Canadian Government. What Sir George Arthur had ten years before denounced as Mackenzie's scheme of Responsible Government was now in full operation;* but it was administered by persons, only one of whom, Mr. Hincks, paid the least attention to the man who had been reviled as its author so long as it was deemed odious or unpopular. This member of the Government had paid him a casual visit in the Rochester prison; while others from Toronto, on whose friendship he had much greater claims, had passed on without giving any proof that they retained a consciousness of his existence. While in Montreal, he visited the Legislative library, in his right as an ex-member, and on the assurance of the deputy librarian as to the uniform practice. He was consulting the catalogue when Col. Prince, a member of the House, went up to him and demanded to see the ticket of the member by whom the ex-member was introduced; or, said he, with emphasis, "I will kick you down stairs if you don't leave this moment." Mr. Mackenzie, thus assailed, left the library. Col. Prince met him in the lobby and renewed his threats. The Post office messenger of the House, named Webster, thought himself entitled to imitate such distinguished ruffianism; for which he was very severely reprimanded by M. Morin. Col. Prince, who has the generous feelings which are often allied to impulsiveness, soon expressed his regret for this occurrence. In a letter to Dr. Barker, of Kingston, written only seven days after the occurrence, he

* Dispatch to the Marquis of Normanby, August 21st, 1839.

said: "I acted on the impulse of the moment; and I tell you candidly that, had I known then what you and Chisholm have since informed me of, he might have enjoyed his studies in our library as long as he pleased, without any interruption from me." Mr. Mackenzie was afterwards introduced to the library by a volunteer member, Hon. Sandfield Macdonald, with whom he had no previous personal acquaintance. A story is told that when Mr. Macdonald returned to Glengarry, his Highland constituents complained of his suspicious civilities to a pardoned rebel; and that Mr. Macdonald, who is entirely destitute of the objectionable clannishness ascribed to some of his countrymen, replied: "Do you think I would see an Englishman kick a Scotchman and not interfere?" This sufficed, so the story goes, instantly to silence all complaint. On his way westward, the returned exile was burnt in effigy in Kingston.

His arrival in Toronto was the signal for a Tory riot. On the evening of the 22d March, a mob collected in the streets, with flambeaux and effigies of Attorney General Baldwin, Solicitor General Blake, and Mackenzie. They marched defiantly past the Police Office, burnt two of the effigies opposite the residences of the Crown officers, and then proceeded up Yonge Street, to the house of Mr. John McIntosh, where Mr. Mackenzie was staying. Here, by the aid of two or three blazing tar-barrels, the mob burnt the remaining effigy and assailed the house, broke the windows, and attempted to force their way through the door. All the while, the Chief of Police and at least one member of the City Council were quietly looking

on. Next day, the Mayor caused special constables to be sworn in with a view of preventing a repetition of these outrages; and an alderman, in his place in the Council, declared that he "would not hesitate an instant" to assassinate Mackenzie, were he not restrained by fear of the law! For many nights after the house was well guarded, and was not again attacked. *The Examiner* had condemned these outrages in fitting terms, and the premises of the proprietor were threatened with attack. A mob assembled in King Street for that purpose; but when it became known that there was a number of armed men in the building, they dispersed without attempting any violence. Two persons had been stationed on the ground floor with double-barrelled guns, and the first man who might have broken in would have been instantly shot.

On the 1st May, 1850, Mr. Mackenzie started with his family from New York for Toronto, where they arrived a few days after. So long as he remained in New York, his connection with *The Tribune* continued; and his regular salary gave him the means of supporting his family in comfort. Such was his confidence in his own popularity, that he resolved to stand for the first constituency that might become vacant. It happened to be Haldimand; for which county he was elected in April, 1851, his principal opponent being Mr. George Brown. This constituency he continued to represent till the summer of 1858, when he resigned his seat, partly, I believe, because he did not agree with his constituents on the merits of a particular railroad bill affecting their interests. While in the House, he never sought a leading position, and,

not allying himself closely with either party, he was free to criticize the doings of both. Considering all he had undergone, how many trials of temper he had had in twelve years of exile, it is surprising how free his speeches were of the gall which chronic opposition engenders. He would frequently draw upon his large fund of humor, and keep the house in roars of laughter by the hour. If any reference were made to the rebellion, he always treated the subject jocosely. "There's the Attorney General for Lower Canada," for instance, he would say; "when the British Government placed an estimate on our heads, they valued mine at four thousand dollars, and his at only two thousand." He generally voted in the minority, and sometimes, as in the case of the Municipal Loan Fund Bill, he stood alone. It is not long since, but a large majority of the people of Canada would now vote the same way.

Hope of brighter days always cheered him even in the darkest hour of adversity, and he was constantly trying to inspire others, with whom he was in intimate relations, with the same feeling. Here is an example, in a letter to his son James, October 3, 1850: "Cheer up—do not despond—there are moments of pain and anguish which time only can alleviate, and of these you are seemingly to have your share; but there are also green spots in the desert of life, and you and I may fall upon one or two of them yet: after the darkness comes light. The Bible tells us that they who have loved on earth shall meet in a land where pain and sorrow are no more: it is indeed a pleasing promise, a cheerful hope; and let us play our part here

like men, fearless and faithful, trusting that 'in due time we shall reap if we faint not.'" Soon after this, political malice accused the man who thus wrote, in all the confidence of paternal affection, of Atheism or something of the kind. There never was a grosser libel. Two well-thumbed copies of the Bible, in which almost every passage bearing on liberty and oppression is underscored, show how carefully he read that book. There is scarcely a passage, such as the following, which is not marked round or underlined: "Behold, I cry out of wrong, but I am not heard: I cry aloud, but there is no judgment." He was very far from being contracted in his religious views; and, if he was not orthodox, he had the greatest respect for opinions sincerely held, no matter by what denomination, though he might not be able to share them.

Of a highly sensitive nature and somewhat secretive, he was never fully understood, perhaps, even by his most intimate friends. There was no sacrifice which he would not cheerfully make for his children; he could enter into all their childish feelings, and would at almost any time leave his studies to engage in their play; yet he was sometimes unapproachable. The rude collision with the world, in which he received so many hard knocks, would temporarily weaken the springs of his elastic temper, and till the fit was over the gloom that crowded upon his thoughts would cast its dark shade on all around. In his children he took the greatest pride; and the stern politician, who carried on so many relentless contests, wore the watch of his eldest daughter, around his neck, for twelve years

after her death, in almost superstitious veneration of her who had passed away.

After his return to Canada, his stern independence conciliated the respect of all parties. He was very far from being rich; but he taught the world this moral, that it is not necessary to be rich to be politically independent. Immediately after his return, Mr. Isaac Buchanan, with that princely munificence for which he is noted, offered to make him a gift of \$1,000; but he refused it, lest it should interfere with his independence of action. Twice he was offered office under the government—once directly and once indirectly—but he treated the offers as little short of insults; such was his almost morbid jealousy of a covert attack on his independence. The county of York paid him some £300 due on account of previous Legislative services; and the government paid for his services as Welland Canal Director before the Union. In 1856, some friends started a subscription for a “Mackenzie Homestead;” and after several years’ exertions, some £1,250 was collected; £950 was invested in a house, in Toronto, and the rest was loaned by the committee to himself. Owing to a difference of opinion between himself and the committee, he inserted a notice in the public journals, in 1859, refusing to allow any more subscriptions—of which there were about \$1,500 outstanding—to be collected. From February 1853 to the Autumn of 1860, he published a weekly paper, *Mackenzie’s Message*, but not with great regularity.

Pecuniary embarrassments threw a gloom over the last days of Mr. Mackenzie’s existence. His health was failing; he was without income. He owed nearly

\$3,000. Bills matured and he had not the means wherewith to pay. What could he do? He had tried his best—and failed. Hope, his constant companion in the darkest hours of his life, failed him at last. There remained nothing but for him to lay down and die! During his last illness, he would take no medicine, take no stimulant, obey no medical directions. As he sank gradually, intervals of unconsciousness would occur of sometimes over thirty hours.* On the 28th of August, 1861, his wearisome life came to a close, and the troubled spirit sank to rest. Four days after, a mournful *cortége*, extending half a mile in length, accompanied his mortal remains to the Toronto Necropolis.

“Mute is the tongue that eloquently plead
Our country’s right, our country’s sacred cause,
Whose burning words not seldom have availed
To gain for freemen, freemen’s rights and laws.

“Cold is the heart that never ceased to yearn
For Canada, her welfare and her weal,
Consuming lavishly life’s precious oil
In deep, unresting, and undying zeal.

“And if the glowing zeal that fired his heart,
Crushed by injustice and oppression long,
Burst into action, erring, rash, and wild,
Maddened by private and by public wrong—

* It is proper here to notice a gross fabrication which appeared in the Albany *Evening Journal*, stating that Mr. Mackenzie had written long letters to Mr. Weed, its editor, in depreciation of England, and taking a particular view of the war in the United States; and that he had continued to write up to within four days of his death. I deliberately charge Mr. Weed with inventing the whole story for some base purpose of his own. Medical testimony, as well as that of myself and every member of his family, can be adduced to show that Mr. Mackenzie was incapable of writing a single word, a full month before his death.

"Yet was the flashing of that rebel brand
The herald of Canadian liberty ;
A beacon light to guide our country's bark
Safely into the harbor of the free.

"An alien and an outlaw from the land
His darkest errors had conspired to bless,
Sinning—though sinned against—it was denied
To give atonement, or to find redress.

Blighted life's harvest years—their due reward
Snatched from the ready pen and busy brain,
Exile, imprisonment, and penury,
Stamped on his heart and brow deep lines of pain.

"Longing for, loving still, his chosen land,
Finding no rest upon a foreign shore ;
The ban removed, with gladly hastening feet,
He trod the soil of Canada once more,—

"And stood within her legislative halls,
Lifting his voice for truth and right again ;
In his innate integrity of soul,
Scorning the bribes of place and power and gain.

"But time and change had marked his exiled years,
And suffering had quelled his spirit's fire ;
Hopes, promises, and plans of better days
Lay in the ashes of their funeral pyre.

"And so he sadly laid his armor down,
Feeling, perchance, his course was almost run,
No worldly honors crowned his life of toil,
No laurel, when the weary race was won.

"Peace to his burning, patriotic heart,
Peace to his fearless and undaunted soul,
Peace to his spirit, tried and tempest-tossed—
In some fair haven, some calm, quiet goal !

"Although among the great ones of the earth
His humble name may never find a place,
Posterity, this rarest epitaph
Upon the Patriot's tomb shall proudly place—

“ ‘Here lieth one who prized the public weal
Far above earthly honors, wealth, or fame,
Whose life-long labors in his country's cause
Were pure from sordid end or selfish aim.

“ Oppressed, wronged, exiled, spurned from the land
He would have given his life to bless and save,
His country, on whose shrine his all was laid,
Bestowed upon the Patriot—a grave.’ ”*

* Mrs. Somerville in Toronto *Globe*.

APPENDIX.

APPENDIX A.

SOME OF THE BOOKS READ BETWEEN 1806 AND 1819 BY WILLIAM LYON
MACKENZIE.

ABBREVIATIONS—All the Countries named here are to be marked thus: If English authors, e; Scottish authors, s; Irish authors, i; French authors, f; German authors, g. The period when read is set down thus: 1806, 6; 1807, 7; 1808, 8; 1809, 9; 1810, 10; 1811, 11; 1812, 12; 1813, 13; 1814, 14; 1815, 15; 1816, 16; 1817, 17; 1818, 18; 1819, 19. The size is noted as follows: Folio, (2); Quarto, 4to.; Octavo, 8vo.; Duodecimo, 12mo; Smaller sizes, p.; Pamphlets, pt.

DIVINITY, &c.

1. Brown's annotations on the Bible. s. 6 and 7. (2). (Also other of author's notes). 2. Fisher's explication of the Assembly's catechism, s. 6. 12mo. 3. My grandfather's copy of Oliphant's catechism. s. 6. p. 4. Biographia Scoticanicola. The Scotch worthies. s. 6. 7. 8. 8vo. 5. The cloud of witnesses. s. 6. 7. 12mo. 6. Dyer's sermons. p. 7. 7. Rowe's letters from the dead to the living. e. 8. 12mo. 8. Addison's evidences of the Christian religion. e. 15. 8vo. 9. John Newton's narrative. e. 5. pt. 10. Westminster confession of faith. e. s. 6 and 7. 8vo. 11. Dr. Blair's sermons; 5 vols. s. 12 and 13, 8vo. 16. Rutherford's letters. s. 7. 12mo. 17. Crookshank's history of the state and sufferings of the Church of Scotland. s. 8 and 10. 8vo. 19. The works of Thomas Boston of Ettrick, s., viz: The crook in the lot, Human nature in its fourfold state; Sermons, &c. s. 7. 8. 9. 8vo. 22. Ebenezer and Ralph Erskine's works, 3 vols., containing the Gospel Sonnets. 7. 8. 8vo.; Sermons, &c. 7. 8. 9. 10. 25. Mr. Barclay of Urie's defence of the Quakers, (addressed to Charles the Second). 26. The Rev. T. W. Willison's (of Dundee) works; containing his sermons, the catechism, the afflicted man's companion, &c. s. 6—8, (2). 27. Death of Abél, by Gessner. g. 8. 12mo. 28. Drellincourt on death. f. 11. 8vo. 29. Marshall on sanctification. e. 8. 9. 12mo. 30. MacEwen on the types. s. 14. 12mo. 31. A dictionary of the Bible. s. 8vo. 33. Select

remains of John Brown, minister of Haddington. s. read often. 12mo. 34. Beattie on the immutability of moral truth. s. 14. 12mo. 35. The Messiah, from the German of Klopstock, 2 vols. g. 15. 12mo. 37. Sturm's reflections; 2 vols. g. 15. 8vo. 39. Book of common prayer. e. 15. 40. Evidences of the Christian religion, by the Rev. Dr. Chalmers, of Glasgow. s. 16. 12mo. 41. Sermons, by Vicesimus Knox, D. D., i. 18. 8vo. Bunyan's pilgrim's progress. e. 7—17. 8vo. 43. Bunyan's holy war. e. 19. 44. Pike and Hayward's cases of conscience. 11. 8vo. 45. Secession act and testimony. s. 8. 46. Hervey's meditations. e. 10, 11. 8vo. 47. Hervey's Theron and Aspasia. 2 vols. e. s. 10. 12mo. 49. Doddridge's rise and progress of religion in the soul. e. 14. 12mo. 50. Baxter's saint's everlasting rest. e. 14. 8vo. 51. Guthrie's trial of a saving interest in Christ. s. 6. 12mo. 52. Reflections on incredulity, by Lord President Forbes, of Culloden. s. printed in 1752; read in December, 1819. 12mo. 53. Glass' testimony of the King of Martyrs. s. 1820. 53. Case of William Mills, executed at Edinburgh, in 1785. pt. pp. 80.

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3 vols. e. 8. 30. *Amelia*, by Henry Fielding; 3 vols. e. 9. 33. *Joseph Andrews*, by Henry Fielding; 2 vols. e. 11. 35. *Castle of Otranto*, by Horace Walpole. e. 8. 36. *Belisarius*, by Marmontel. f. 7. 8. 37. *Numa Pompilius*, by Florian. f. 16. 38. Heron's translation of the Arabian nights' entertainments; 4 vols. s. 7. 8. 9. 42. Continuation of Heron's translation of the Arabian nights' entertainments; 4 vols. s. 9. 10. 46. *St. Clair of the Isles*, or the Outlaws of Barra, by Elizabeth Helme; 4 vols. s. 9. 50. *Thaddeus of Warsaw*, by Miss Jane Porter of Edinburgh; 4 vols. s. 9. 54. *Don Sebastian*, by Miss Porter, of Edinburgh; 5 vols. s. 15. 59. *Hungarian Brothers*, by Miss Porter, of Edinburgh; 3 vols. s. 16. 62. *Recluse of Norway*, by Miss Porter, of Edinburgh; 3 vols. s. 16. 65. *Scottish Chiefs*, by Miss Jane Porter, of Edinburgh; 5 vols; s. 17. 70. *Pastor's fireside*; by Miss Porter, of Edinburgh; 4 vols. s. 17. 74. *Peregrine Pickle*, by Tobias Smollet, LL.D.; 4 vols. s. 8. 19. 78. *Roderick Random*, by Tobias Smollet; LL.D.; 2 vols. s. 9. 80. *Sir Launcelot Greaves*, by Tobias Smollet, LL.D.; 1 vol. s. 19. 81. *Count Fathom*, by Tobias Smollet, LL.D.; 2 vols. s. 8. 83. *Humphrey Clinker*, by Tobias Smollet, LL.D.; 2 vols. s. 10. 85. *The Sorrows of Werter*. g. 10. 86. *Tales of the Castle*, by Madame de Genlis; 4 vols. f. 8. 90. *Paul and Virginia*. f. 8. 91. *Indian cottage*, by Mons. Bernardin St. Pierre. f. 8. 92. *Woman, or Ida of Athens*, by Miss Owenson, now Lady Morgan; 4 vols. i. 9. 96. *Novice of St. Dominick*, by Miss Owenson, now Lady Morgan; 4 vols. i. 100. *The wild Irish girl*, by Miss Owenson, now Lady Morgan; 3 vols. i. 103. *Memoirs of an Irish officer and his family*, by Mr. Edgeworth. i. 14. 106. *Tales of fashionable life*, by Miss Edgeworth; 4 vols. i. 10. 110. *Popular tales*, by Miss Edgeworth; 4 vols. i. 10. 114. *Patronage*, by Miss Edgeworth; 4 vols. i. 17. 19. 118. *Harrington and Ormond*, by Miss Edgeworth; 3 vols. i. 19. 121. *Travels of St. Leon*, by Wm. Godwin; 4 vols. e. 9. 125. *Caleb Williams*, by Wm. Godwin; 3 vols. e. 9. 128. *Rasselas*, by Dr. Johnson. e. 9. 129. *Henry*, by Cumberland; 4 vols. e. 9. 133. *Clarissa Harlowe*, by Samuel Richardson. e. 139. *Pamela*, by Samuel Richardson; 2 vols. e. 12. 17. 8vo. 141. *Sir Charles Grandison*, by Samuel Richardson; 8 vols. 11. 15. 149. *Temper*, by Mrs. Opie; 3 vols. e. 17. 152. *Simple tales*, by Mrs. Opie; 4 vols. e. 11. 156. *Adeline Mowbray*, by Mrs. Opie; 2 vols. e. 17. 158. *Valentine's Eve*, by Mrs. Opie; 3 vols. e. 17. 19. 161. *The Scottish adventurers*, by Hector M'Neil, Esq. s. 17. 163. *India voyage*, by Mrs. Lefanu; 2 vols. e. 12. 165. *Strathallan*, by Mrs. Lefanu; 4 vols. e. 17. 169. *Vicar of Wakefield*, by Oliver Goldsmith. i. 13. 18. 170. *Almorán and Hamet*, by Dr. Hawksworth. e. 12. 171. *Man of feeling*, by Henry Mackenzie, Esq., Edinburgh. s. 9. 10. 11. &c. *Man of the world*, by Henry Mackenzie, Esq., Edinburgh. s. 12. 173. *Julia de Roubigne*, by Henry Mackenzie, Esq., Edinburgh. s. 12. 174. *Elizabeth, or the Exiles of Siberia*, by Madame Cottin. f. 15. 175. *Adventures of Captain Robert Boyle*. 7. 176. *A winter in Edinburgh*, by Honoria Scott; 3 vols. s. 14.

179. *Evelina*, by Miss Burney; 2 vols. e. 10. 14. 18. 181. *Cicely Fitzowen*; 2 vols. e. 14. 183. *Ferney Castle*; 4 vols. e. 14. 187. *Cicely and Raby*; 4 vols. e. 14. 191. *Bryan Perdue*, by Thos. Holcroft; 3 vols. e. 14. 194. *Emily Montague*, by Mrs. Brookes; 4 vols. e. 14. 198. *Profligate Prince*. e. 14. 199. *Celia suited, or the Rival heiresses*; 2 vols. e. 14. 201. *Cottagers of Glenburnie*, by Elizabeth Hamilton. i. 7th ed. 14. 202. *Queen Hoo Hall and ancient times*, by Joseph Strutt; 4 vols. e. 14. 206. *A Tale of the times*, by Mrs. West; 3 vols. e. 15. 209. *The Loyalists*, by Mrs. West; 3 vols. e. 17. 212. *Five volumes* by J. Horsely Curties. e. 14. 217. *The Swiss emigrants*; 2 vols. e. 15. 219. *Moral tales*, by Mrs. Fleury. e. 15. 220. *Offspring of Mortimer*; 4 vols. e. 15. 224. *Fashionable infidelity*; 3 vols. e. 15. 227. *School for widows*, by Clara Reeve; 3 vols. e. 15. 230. *The young philosopher*, by Charlotte Smith; 4 vols. e. 15. 234. *Mysteries of Udolpho*, by Anne Radcliffe; 4 vols. s. 15. 238. *Castles of Athlin and Dunbayne*, by Anne Radcliffe. s. 15. 239. *The mysterious freebooter*; 3 vols. 16. 242. *Tales of the Genii*; 2 vols. 8. 244. *Discipline*; 2 vols. s. 16. 246. *Self-control*; 2 vols. s. 16. 248. *Smollet's translation of Don Quixote*, by M. Cervantes, (Spain); 4 vols. s. 16. 252. *Farmer of Inglewood forest*, by Elizabeth Helme; 4 vols. e. 16. 256. *The Wanderers*, by Miss Burney; 5 vols. e. 15. 261. *Cælebs in search of a mistress*; 3 vols. e. 18. 264. *Cælebs in search of a wife*; 2 vols. e. 16. 266. *Cælebs married*; 1 vol. e. 17. 8vo. 267. *The white cottage*. (Blackwood.) s. 17. 268. *The Widow's lodgings*; 2 vols. s. 17. 270. *Clan Albin*; 4 vols. s. 17. 274. *Marian*, (Manners & Miller.); 3 vols. s. 17. 277. *The Saxon and the Gael*; 3 vols. s. 17. 280. *Guellette's Tartarian tales*; 2 vols. f. 19. 282. *Orphan of Tintern Abbey*; 4 vols. e. 18. 286. *Good men of modern date*, by S. Green; 3 vols. e. 18. 289. *Waverly*, by Walter Scott, Esq., Edinburgh; 3 vols. s. 16. 12mo. 292. *Antiquary*, by Walter Scott, Esq., Edinburgh; 3 vols. s. 17. 295. *Guy Mannering*, by Walter Scott, Esq., Edinburgh; 3 vols. s. 17. 298. *Rob Roy*, by Walter Scott, Esq., Edinburgh; 3 vols. s. 19. 301. *Tales of my landlord, containing Black Dwarf, and Old Mortality*, by Walter Scott, Esq., Edinburgh; 4 vols. s. 1st. ser. 17. 305. *Tales of my landlord, or the Heart of Mid Lothian*, by Walter Scott, Esq., Edinburgh; 4 vols. s. 14. 309. *Tell-tale Sophas*; 3 vols. e. 19. 312. *Miss Greville*; 3 vols. e. 19. 315. *Chrysal, or the adventures of Alguinea*; 4 vols. e. 10. 12. 319. *Antar*, by Terrieh Hamilton, Esq.; 1 vol. 19. 320. *A Sicilian romance*, by Anna Radcliffe; 2 vols. e. (printed 1792.) 19. 12mo. 322. *Cælebs deceived*; 2 vols. e. 19. 12mo. 324. *Tales of real life*, by Mrs. Opie; 3 vols. e. 19. 12mo. 327. *Father and daughter*, by Mrs. Opie. e. 19. 12mo. 328. *Jeannette*, by the author of *Melbourne, &c.*; 4 vols. (printed 1800.) 19. 332. *Tales of my landlord, containing Bride of Lammermoor, a Legend of Montrose, &c.*, by Walter Scott; 4 vols. s. 3d ser. 19. 12mo. 336. "I says, says I," written by the author of "Thinks I to myself," a clergyman of Litchfield and nephew of the Bishop; 2 vols. e. 19. 338. *Donald*; 3 vols. e. 15. 12mo. 341. *De Valcourt*; 2 vols.

e. 14. 12mo. 343. Faro table, or Gambling mothers; 2 vols. e. 16. 12mo 345. Ned Evans; 4 vols. e. 13. 14. 12mo. 349. Women, or Pour et Contre, by the Rev. R. C. Maturin, Dublin; 3 vols. 20. 12mo. (Highly praised by the Edinburgh review.) 352. Campbell, or the Scots probationer, a novel, by a native of Forfarshire. York, 1820; 2 vols. 20.

APPENDIX B.

WHEN charged with publishing libels on the House, and a motion had been made to expel the author and publisher, Mr. Mackenzie made a long defence, of which the following are the material portions:—

“The articles complained of,” he said, “contain opinions unfavorable to the political character of members who compose the majority of this House, also opinions unfavorable to those persons who compose the Executive Council of the Colony. The former are charged with sycophancy, the latter with being as mean and mercenary as any other Colonial administration. It is alleged that to propagate such opinions is criminal and deserves punishment. Undoubtedly, if there is a rule or law, it is wrong to transgress it. But I know no law that is transgressed by propagating these opinions. Let it even be supposed, for the sake of argument, that the opinions complained of are false, though I firmly believe that they are perfectly true. If all false quotations and false opinions are improper, then all discussion either in this House or through the press must be also improper, for one set of opinions must be wrong. And if none but true opinions can be given or quoted by either party, then there can be no argument. The newspaper press of this Colony takes different sides on political questions. Four-fifths of the twenty-five journals published in this Colony are in raptures with the Lieutenant Governor, the Councils, and House of Assembly; they continually laud and extol them to the skies for the wonderful benefits they are conferring, and (as they say) about to confer upon the

Province. The remaining journals, comparatively few in number, but of very extensive circulation, disapprove generally of the manner in which public affairs are conducted. Shall they not possess the power to blame, if they think fit, that which the others praise? May not they who find fault be in the right, and the others who praise in the wrong? How are the people to know when to approve or to disapprove of the conduct of their rulers, if the freedom of expressing all opinions concerning public men be checked? In English Law, it is said that though discussion should be free it should be 'decent,' and that all indecency should be punished as libelous. The law of libel leaves the terms 'indecent discussion' undefined, and in old English practice, as Bentham justly remarks, what is 'decent' and 'what the judge likes' have been pretty generally synonymous. Indecency of discussion cannot mean the delivery either of true or false opinions, because discussion implies both; there is presumed to be two parties, one who denies, and another who affirms; as with us, where twenty journals are in favor of the majority in this House and only five generally opposed to them. Would you wish all check from the press put a stop to? Assuredly there is no medium between allowing all opinions to be published, and of prohibiting all. Where would you draw the line? Those among us who may wish to conceal the abuses of our defective government will denounce the paragraphs complained of as libelous, because it is a point of great importance with them to keep the people in ignorance, that they may neither know nor think they have any just cause of complaint, but allow the few to riot undisturbed in the pleasures of misrule at their expense. They say, West India negro law is admirable. The Solicitor and Attorney General have already gratuitously denounced the paragraphs before the House, as tending to bring the government into contempt, and impede its operation. If the government is acting wrongly, it ought to be checked. Censure of a government causes inquiry, and produces discontent among the people, and this discontent is the only means known to me of removing the defects of a vicious

government, and inducing the rulers to remedy abuses. Thus the press, by its power of censure, is the best safeguard of the interests of mankind; and unless the practical freedom of the press were guaranteed by the spirit and determination of the people of Upper Canada, it is doubtful to me whether this House itself, as an elective body, would be an advantage to the community. I rather think it would not. It is by no means an improbability that the electors of this House should sometimes make a bad choice. That I think they have done so now is evident from my votes upon most questions. It is by the liberty of the press, and the freedom of expressing opinions, that a remedy can be had for an unfortunate choice; the more the country know of your acts, the more severely editors on whom they depend animadvert on your public conduct, the more will that conduct become a matter of inquiry and discussion, and the country will look into your actions and weigh your character thereby. If the people support a press and expect independent opinions from the editor, would you have that editor deceive them by praising the most notorious selfishness and sycophancy, and dressing these vices in the garb of virtue?

“If one man in a legislative assembly saw that he might promote misrule for his own advantage, so would another; so would they all; and thus bad government be reared and upheld. Unless there be a check in the people upon governors and legislators, founded on a knowledge of their character, governments will inevitably become vicious. If the legislature shall (as these proceedings indicate in my case) assume the power of judging censures on their own public conduct, and also assume the power to punish, they will be striking a blow at the interests of the people and the wholesome liberty of the press. Where bad judges, hypocritical governors, wicked magistrates, sycophantic representatives, can, by the doctrine of contempts, exercise at will a censorship over the press, and punish the journalist who strives to promote the public interest by a fearless discharge of an unpleasant duty, misrule and injustice will be the inevitable consequence. It is

our duty to watch the judges; but were they to assume the power of punishing editors summarily for animadversions on their conduct on the bench, how would the people know what that conduct had been, or learn whether we did or did not do our duty in striving to secure for them a perfect judicature? There is assuredly no security for good government, unless both favorable and unfavorable opinions of public men are freely allowed to be circulated. To have the greater benefit in the one case, you must submit to the lesser evil in the other. But it will perhaps be said that the language of these paragraphs is passionate, and that to censure you in passionate language is libelous. Who shall define what is and what is not violent and passionate language? Is not strong and powerful emotion excited in one man's mind by expressions which in another man produces no such effect? Will you affirm that opinions ought to be put down if conveyed in strong language, or what you may be pleased to consider strong terms? This doctrine would leave to the judges the power of interpreting the law favorably or unfavorably in all cases. Libel might thus mean one thing in York and another thing in Sandwich. The freedom of the press has been for many years practically recognized by all factions, sects, and parties in these Colonies; and each, in its turn, has had resort to that powerful lever in attempting to direct public opinion. Opinions both favorable and unfavorable, both true and false, have been safely promulgated, and truth and error advocated by opposite sides, of which I will now refer to some examples. It cannot even be alleged by my judges, the public agents for the *Gore Mercury*, (Messrs. Mount, Burwell, Shade, Ingersoll, and Robinson,) owned by the learned member opposite (Mr. McNab), that that newspaper has changed and become more violent than at the onset. Mr. McNab told us in his first number that 'Believing decency and good manners to compose some part of virtue, we shall endeavor to exclude from our columns all selections or communications having in the least a contrary tendency. All personal reflections, private scandal, and vituperative attacks upon individual charac-

ter, we openly declare we wish never to have even sent to us.' And in the very same number, he gave several delectable verses as his own definition of this 'virtue,' 'decency,' and 'good manners.' I may as well give the House a specimen from his opening number, where he speaks of the majority of the last House of Assembly:—

“ ‘Each post of profit in the House
To greedy sharks assigned,
And public records of the state
Clandestinely purloined.

“ ‘The Attorney from the Senate House
Endeavored to expel,
Whose Hall they made look like a room
Where raving drunkards dwell.

“ ‘For months this ribald conclave
Retailed their vulgar prate,
And charged two dollars each per day
For spouting billingsgate.

“ ‘Two years their saintships governed us
With lawless, despot rule,
At length the sudden change broke up
The league of knave and fool.’

“After apportioning to your predecessor in that chair a due share of this decent poetry, the learned gentleman opposite informed the people of Wentworth that their late representatives, of whom I was one, were so many ‘juggling, illiterate boobies—a tippling band—a mountebank riff-raff—a saintly clan—a saddle-bag divan—hacknied knaves;’ and that they possessed other equally pleasant and agreeable qualities, which it appears his fine sense of virtue, decency, and good manners did not allow him to forget in his future productions, which my judges, his agents (Messrs. Shade, Robinson, &c.), have taken such unequalled pains to circulate among our worthy constituents. I declare I think it a severe punishment to be obliged to seek for specimens of ‘the liberty of the press’ as practiced by the majority of this House,

in such a vehicle as the *Mercury*, but it nevertheless appears to me the best and most effectual way of exhibiting to the country the gross and shameful partiality of this proceeding. I will now call the attention of the House to Mr. McNab's *Mercury* of the 9th June and 15th September last. Courtiers are seldom slow in perceiving what pleases a government, and are always ready to use the means, however improper. It has been found no difficult road to the favor of His Excellency and his Council to cast opprobrium on Mr. Ryerson, the Methodists, Mr. Bidwell, and others whom His Excellency had no friendship for; accordingly we find Mr. McNab and the agents of his *Mercury* stating that Mr. Ryerson is 'a man of profound hypocrisy and unblushing effrontery, who sits blinking on his perch, like Satan when he perched on the tree of life, in the shape of a cormorant to meditate the ruin of our first parents in the garden of Eden,' and the ally of 'shameless reprobates.' My brother members go on, and civilly publish in the *Mercury*, that my soul was going with a certain potentate of darkness to his abode; that I, 'the rascal,' had been guilty of 'dark calumnies and falsehoods—false oaths, false acts—with many other sins of blackest hue.' I will not read the production; it is too gross; but those who wish to refer to the proofs of 'good manners' afforded by those of my judges who circulate the *Mercury* may have the perusal of the paper itself. In the *Mercury* printed on the day this Session was convened, I find that Mr. McNab and his agents circulated (from the *Kingston Chronicle*) an opinion that I had been 'wickedly employed in exciting' the people of Upper Canada 'to discord, dissension, and rebellion.' I presume this was published as a fair specimen of the degree of politeness due from one member to another; for the two honorable members for Wentworth used precisely similar language at the great public meeting held last summer at Hamilton. This brings me to notice the meeting of the inhabitants of York last July, and the petitions to the King and this House, of which Messrs. McNab and Gurnett, and their agents, give an account in their journals as follows:—

“The whole proceeding, however, is so superlatively ridiculous, and so palpably fraudulent and deceptive, that we find the utmost difficulty in taking the subject up at all as a serious matter, or in alluding to it with any other language than that of ridicule and contempt. And as these are also the feelings and the sentiments with which every man of common sense, of every sect and party in the Province, look at, and laugh at, those extravagant proceedings—always excepting the little knot of half a dozen disappointed and revengeful political aspirants who constitute the nucleus of the old central junto party, and of every other disaffected body which has been organized under different appellations in this country within the last seven years; always, we say, excepting this knot of worthies, and those ever ready tools of their dishonest purposes—the illiterate and mentally enslaved adherents of Ryersonian Episcopal Methodism—with these exceptions we repeat, every man in Upper Canada thoroughly penetrates the fraudulent proceedings by which the party in question, through the agency of their hired tool, Mr. Mackenzie, are now attempting to attain their selfish and dishonest object.

“But the question naturally presents itself, how, in defiance of these incontrovertible facts, can so large a number of the people of the Province be induced to give the sanction of their signatures to the complaints contained in Mr. Mackenzie’s addresses? This is a question, however, to which every intelligent man in the country is prepared to answer. “First, through the influence, direct and insidious, which the crafty Methodist Episcopal priesthood exercise over their illiterate, but well organized and numerous adherents; and secondly, through the fraud, falsehood, or sheer humbug, which is resorted to by Mr. Mackenzie at his pretended Township Meetings.”

“There is language for us, Mr. Speaker, language calculated to please the heads of the Government, and intended doubtless as illustrative of the benefits we of the minority might derive from the liberty of the press. Let us now examine who are the accredited partners, public supporters, or rather, as they are called,

agents of the *Courier*. Col. Ingersoll, M. P., Mr. Mount, M. P., Col. Burwell, M. P., your Hon. colleague, the York Bank agent at Dundas, the Hon. Counsellor Crooks, at Flambro', Mr. Jones at Prescott, Mr. Berczy at Amherstburg, and a long list of officials. Will those gentlemen named who have places on this floor, and who are all pressing forward this prosecution, be able to persuade the country that they are not parties to one of the most partial and shameful schemes ever hatched against a fellow mortal? Well and truly does Mr. McNab tell his readers in one of his numbers, that 'HATRED can survive all change, all time, all circumstance, all other emotions; nay, it can survive the accomplishment of revenge, and, like the vampire, prey on its dead victim.' The majority of this House, whatever may be their practice in regard to sycophancy, profess to dread and abhor the very name of sycophants; yet are they willing to use the freedom of the press to bestow remarkable titles on others. The *Mercury* and the *Courier*, and their agents, my brother members here present, in their account of the Hamilton Meeting, jointly honor me with the appellations of a 'politico-religious juggler—mock patriot—contemptible being—groveling slanderer—wan-dering impostor,' whose 'censure is praise,' and whose 'shameless falsehoods,' 'foul deeds,' 'envious malignity,' and 'impotent slanders' point me out as 'the lowest of the vile.' All this it is expected I should quietly submit to, and so I do. Next, it appears to be expected that I should patiently endure the most insulting abuse on this floor from persons in authority under the Government; and that too I have been found equal to. Thirdly, I must not call things by their right name in the newspaper called the *Advocate*; but either praise the most undeserving of public men, be silent as death, or go back to the freeholders of the country with the brand of a 'false, atrocious, and malicious libeler' on my forehead. If such shall be your measure of justice, I will not shrink from the appeal to the country. Not one word, not one syllable do I retract; I offer no apology; for what you call libel I believe to be solemn truth, fit to be published from one end of

the Province to the other. I certainly should not have availed myself of my privilege or made use of the language complained of on this floor; but since I am called to avow or disavow that language, as an independent public journalist, I declare I think it mild and gentle; for, be it remembered, Mr. Speaker, I see for myself how matters are carried on here; your proceedings are not retailed out to me at second hand. When the petitions of the people, numerous beyond all precedent since the days of Chief Justice Robinson, Jonas Jones, and the Alien question were brought into this House, praying for economy and retrenchment, for the regulation of wild lands sales by law, for the abolition of crown and clergy reserves, and all reservations except for education, for the means of education, for an abolition of banking monopolies, for a reduction of law fees and a simplification of law practice, for the equal distribution of intestate estates, for the establishment of the mode of trying impeachments, for assuring the control of the whole public revenue, for a revision of the corrupt jury packing system, for the repeal of the everlasting salary bill, for disqualifying priests and bishops from holding seats in the two councils, for taking the freeholders' votes at convenient places, for allowing the people the control over their local taxes, for inquiring into the trade law of last April, for the abolition of the tea monopoly, and for an equal representation of the people in this House, how was I treated by those who press on this infamous proceeding? Contrary to all parliamentary usage, the petitions were consigned to a select committee chiefly composed of the bitter enemies of the improvements prayed for, and myself and the other members who introduced them excluded by your vote. My motions for referring these petitions to their known friends, in order that through them bills agreeable to the wishes of the country might be brought before you, were negatived at the request of a member who has openly abandoned the principles which procured him a seat on this floor and a silver cup elsewhere, and adopted a course which has elevated him to the rank of a deputy crown clerk, a justice of the

quorum, and a favorite in the circle of officials, at the west end of this city; in more vulgar language, 'he has turned his coat,' and I might add, 'his waistcoat also.' [Cries of order.] The hon. member for Frontenac (Mr. Thomson), who has made these several somersaults for his convenience, is a public journalist, and consequently like me a dealer in opinions. In his *Kingston Herald* of the 26th October last, he calls the petitions of the country, with the consideration of which this House has since entrusted him, a 'humbug,' and tells his brother member (Mr. Buell) that he 'must plead guilty, if it be "illiberal and unjust"' to expose the unprincipled conduct of an individual (meaning myself) whom we (meaning himself) conceive to be an enemy to our country, and a promoter of discord and disaffection.' What a generous, just, unbiased, and impartial judge he will make in his own cause, Mr. Speaker, on the present occasion!

"Again, speaking of the Address to His Majesty which has already been signed by ten thousand freeholders and inhabitants he uses the following terms in the *Herald* of July last:—

"'We need not inform our readers that the uncalled-for, and, as the *Patriot* justly designates it, "impertinent" address, is the production of Mr. Mackenzie of *The Colonial Advocate*, whose object is to excite discontent in the minds of the farmers within the sphere of his influence, and at the same time to offer a deliberate insult to the Legislature of which he happens to be a member.' The honorable gentleman assumes to himself the right of denouncing at will his brother representative as a traitor to his country, a promoter of rebellion, and for no other reason than that that member (myself) had originated an address to our present most excellent Sovereign King William, which ten thousand of our fellow subjects have since sanctioned by their signatures! He declares by his votes on this question that he, as one of the majority in this House, may brand me with every infamous epithet which ill will may see fit to embody in a resolution, but that I, as a public journalist, must be expelled and perhaps disqualified if I once

venture to hint at the glaring political subserviency of public men. Our late Colonial minister, Sir George Murray, in a speech addressed to the Electors of Perthshire, is reported to have said, that 'It would be well if the people would at all times bear in mind that crowds have their courtiers as well as monarchs. Wherever there is power there will be flatterers, and the people do not always sufficiently recollect that they are liable to be flattered and misled as well as princes, and by flatterers not less mean, cringing, and servile, and above all, not less false or less selfish than the filthiest flatterer who ever frequented a palace, to serve his own private ends by betraying the interests of his master.'

"Mr. Speaker, I never was so well convinced that crowds have their sycophants in Upper Canada as well as courts, as since I had the honor of a seat in this Assembly. In another of Mr. Thompson's journals, published before he fell from a state of political grace, when he was an adherent to the party who bestowed on him the cup, I find he quotes from the late *York Observer* the following curious passage, without passing an opinion concerning its noxious or innoxious qualities:—'Mr. Fothergill has commenced replying to Mr. Macaulay's letter; we regret to perceive that he is advancing doctrines so much tinged with arrogance and tyranny, and so opposite to that glorious constitution which is the boast of Englishmen, and the admiration of every lover of freedom, that no man, except a slavish dependent upon a "jackanapes," lawless, disgusting, and slanderous Commons would maintain or countenance.—*Observer*, March 13.' It hence appears that this honorable body, in its earlier stages, was not so tender of its privileges and so fond of encroaching on the freedom of the press as the legislators of the present day; if it had, the *Observer's* unfavorable opinion, thus plainly expressed, would have left room for the exercise of its powers. But the flatterers of that day, if any there were, seem to have been wise in their generation. In another number of the *Kingston Herald*, published before its editor had received the new light of official patronage, he complains that 'a grand jury consisting of his political oppo-

nents' (now his dear friends) had indicted him for libel, because he had made a 'fair, justifiable animadversion upon a public official act of the late administration.' And then Mr. Thomson in his journal proceeded to show that his brother justice, Mr. MacFarlane, had scolded the House of Assembly as hard as he pleased, and that while he (Mr. Thomson) was persecuted, his then opponent, now partner in the statute job, was pensioned, and paid, and recompensed. As Mr. Thomson's paper shows the usages of the administration presses in a very clear light, I will trouble the House to listen to his description of the state and condition of the liberty of the press, A. D., 1829. 'It (meaning the *Kingston Chronicle*) stigmatized Messrs. John Rolph, W. W. Baldwin, Paul Peterson, James Wilson, Lockwood, Mackenzie, Malcolm, Dalton, Blacklock, Randal, Hornor, and Mathews' by name, and called them 'besotted fools,' and added, 'It is evident they are actuated by no other feeling than malice, to gratify which they pay no regard to truth or decency. For instance, the report of the Committee on Collins' case contains absolute falsehoods, known to be such to both Rolph and Baldwin, and yet they join in the report.' 'Let me here ask a candid public what there is in the character of John B. Robinson, acting in his capacity of Attorney General, more sacred than in the character of John Rolph or W. W. Baldwin, acting in their capacity of Members of the Provincial Assembly? or upon what principle of law or justice Francis Collins is prosecuted for libel, and James McFarlane exempted from prosecution for similar but more aggravated libels? In a communication published in the *Chronicle*, addressed to Louis J. Papineau, Esq., Speaker of the House of Assembly of Lower Canada, there are these among many other libelous expressions: 'Sir, my charge against you is threefold—falsehood, defamation, and scurrility.' 'I then convicted you, in the face of your country, of having gone officially into the presence of the Representative of our most gracious Sovereign, with a base and designing falsehood on your lips.' 'I ought to have been assured that a career like yours, commenced in iniquity, must inevitably terminate in crime and

confusion.' 'There are no bounds to your malevolence.' 'No character, however pure, is safe from your envy and falsehoods.' 'The very air is tainted with the poison of your malignant disposition.' 'You seem to traffic in defamation; you move in an orbit of public slander, and have rallied round you, as satellites, all the baser feelings of a rancorous and diabolical heart.' 'If you have any other titles but those of a cowardly heart and a malevolent disposition, produce them, I entreat of you, but conscience whispers to you that you cannot. I declare, in the face of my country, that the House of Assembly, as at present constituted, is corrupt, and an intolerable nuisance.' These disgusting extracts from the *Chronicle* are not made to prejudice the editor of that paper, but to show, in the light of a fair contrast, the true character and bearing of the one-sided system of libel prosecutions commenced under the late Administration.

"One more extract from Mr. Thomson's *Herald*, and I have done. It is where he speaks of the libel bill you tomahawked last winter: 'We perceive that the attempt to get rid of one of the relics of barbarous and oppressive times has failed in our Assembly. "The greater the truth the greater the libel," is an excellent doctrine to prevent deeds done in darkness coming to the light, and an excellent instrument in the hands of the rich and influential to exercise a spirit of revenge upon such as offend them, providing they can disguise the matter so far as to induce a jury to give a verdict in accordance to their feelings.' Surely, Mr. Speaker, the scriptural advice offered to him that standeth, that he take heed lest he fall, is deserving of deep consideration, when we see the editor of the Kingston *Herald* ranged among the prosecutors of the press; (order, order;) the parable, too, of the servant who after being forgiven a heavy debt was ungrateful enough to send his fellow servant to prison because the latter was unable to pay an hundred pence, might be applied practically to the present proceeding; (order, order;) but since the House desires it I will forbear."

After referring at some length to the case of Queen Caroline, Mr. Mackenzie concluded, as follows: "As we have English law

here, I am determined to have English usage, and be assured, Mr. Speaker, that were every representative on this floor to join the movers of these resolves in denouncing and condemning the articles you have selected as libelous, I would republish them *verbatim* the following Thursday, and test how far the people of Canada are disposed to protect the free discussion of the public conduct and characters of public bodies and public men. Once more, however, I would recommend to you to quash these proceedings, for you may depend upon it that although your dungeons were ready, and your tipstaff at my elbow, I would not yield an inch."

APPENDIX C.

THE SECOND RIDING OF YORK ELECTION IN 1836.

TO THE HONORABLE THE COMMONS OF UPPER CANADA IN PROVINCIAL PARLIAMENT ASSEMBLED :

The humble Petition of William Lyon Mackenzie, of the City of Toronto, Printer,

SHEWETH,—That at the last election for a member to represent the Second Riding of the County of York in the Legislature, William Hepburn, Esquire, acting Trustee to the Six Nations Indians, was the Returning Officer; and the candidates proposed, and for whom a poll was demanded, and opened, were Edward William Thomson, Esquire, the sitting member, and your petitioner.

That His Excellency the Lieutenant-Governor, Sir F. B. Head, unduly interfered with the election, and tampered with the rights of the freeholders.

1st. By putting forth a variety of threatening, inflammatory harangues, in violent language, under the form of replies to certain addresses, which were circulated in the shape of hand-bills, evidently with the intention of biasing the minds of the yeomanry previous to the then approaching election.

2d. By issuing new deeds after the prorogation and dissolution, and even after polling had commenced, with a view to prevent the election of your petitioner, who had been six times successively returned for the County, and once for the Riding, for which he was, for the eighth time, a candidate.

3d. By allowing Magistrates, persons dependent on his will, and others, who were to receive Crown deeds, on condition of performing settlement duties, to obtain their deeds, such duties not having been performed, and this to influence the election.

4th. By inducing persons, with expectation of offices of honor and emolument, to violate the law, in order to prevent your petitioner's election—as, for instance, in the matter of Andrew Shore and wife, committed to jail, on a charge of grand larceny, by Alderman Denison; and by him and Alderman Gurnett (the latter a most indefatigable agent in spreading the Lieutenant Governor's political replies through the Riding) admitting Shore to bail, insufficient bail, contrary to the statute, which requires all such cases to be brought before one of the Judges of the Court of King's Bench, and allowing Mrs. Shore to go free. Shore was instantly hurried off, by Mr. Gurnett, and his constitutional society connections, to Streetsville to vote for the government candidate. For several months after he was at liberty. He was convicted at the last assizes of the crime of stealing in a dwelling-house, and is now an inmate of the penitentiary. Mr. Gurnett, the agent in this dishonorable affair, has, since the election, been promoted to a Commissionership in the Court of Requests in this city, in the place of Mr. Small, removed.

5th. By issuing Crown deeds without a description of boundaries, under improper advice, in order to affect the election.

6th. By declining, or refusing, to discountenance Orange Lodges and party proceedings, although in possession of the Royal pleasure and the decision of the Legislature respecting them.

7th. By issuing Crown deeds for lands at Port Credit, although the conditions of the sale had not been fulfilled, and by issuing such deeds, in some cases, to other persons than the original

nominees or purchasers, although the practice has been not to sanction transfers by those who had no titles, except under the Heir and Devisee Act.

8th. And, as your petitioner is advised, by contributing, with his officers, to funds intended to affect the election; by issuing Crown deeds to individuals, upon the condition, express or implied, that they would vote for Mr. Thomson, and this, in some cases, without payment of the purchase money, or upon unusual terms.

That the Returning Officer, William Hepburn, Esquire, in the performance of the duties of his office at the said election, acted, in many respects, partially, illegally, and ignorantly. Amongst others—

He administered the oath required to be taken by freeholders, under the Statute 4th William IV., chap. 14, for several days after the commencement of the polling, invariably omitting the description of the estate on which the elector voted, and substituting only the words “a freehold,” notwithstanding the remonstrances of your petitioner against his doing so; and your petitioner often endeavored to convince him that any person who had a freehold any where, even if it were in England, could take such an oath as he had substituted. After several days, he began to swear the voters to the freehold they voted on, as by law required.

He rejected the votes of many electors who offered their votes for your petitioner, and refused to record their names or votes; and discouraged others from coming to the hustings, by deciding, on an objection to a vote raised by Mr. Thomson, that freeholders born in the United States, or in any foreign country, should not vote, although they might have been resident in Canada half a century, and duly taken the oath of allegiance, and although they publicly offered to take the oaths prescribed by the statutes; unless each voter, on presenting himself, could produce a paper, purporting to be a Commissioner's certificate, that he had taken the oath of allegiance; such paper not being evidence even when shown.

Early in the election he permitted this class to go home, fetch the paper, and return and vote; but afterwards he laid down a rule, that if they had it not with them when asked they could not return and vote.

There are many cases to be cited—your petitioner will refer only to two at this time, by way of illustration.

Andrew Cook, father of Jacob Cook, of Cooksville, one of the oldest freeholders in the Province, and who had voted at many elections, was turned from the hustings, because he had not a certificate with him, although he offered to take the oaths required by the statute.

Wait Sweet, an old freeholder, who has been half a century in Upper Canada, and voted five times for your petitioner, who took the oath of allegiance, before Colonel Joel Stone, in 1801, and served in the late war, offered to vote, and asked to have the oaths required or prescribed by statute to be administered to him. He was turned from the hustings, because his certificate was not in his pocket, his right to vote denied, and he was further told not to come back. But he soon returned with the Colonel's certificate of 1801, and a certificate of his war services, and he was turned from the hustings, and his vote rejected by the Returning Officer, who even refused to enter your petitioner's objections on the poll-book.

These and similar illegal decisions discouraged many voters, who considered that to be turned away from the poll in presence of their neighbors, as aliens, was an insult they could not well brook.

The Returning Officer did not act uniformly on any rule—he turned away many who offered to take the oaths—he admitted others.

Your petitioner had reason to believe that several brothers—Messrs. M'Grath—sons to the church of England Clergyman in Toronto, one of them a Postmaster, another a Court of Requests Commissioner, captain of a troop of horse, had no title to the property they voted on, the title being in the Crown, (of which

- the Returning Officer had previously been apprized by them,) and a mortgage also intervening. Two of them would not answer any questions put to them, either by candidates or Returning Officer, and the latter decided they might vote on taking the oaths, which they did and voted for Mr. Thomson; while those of Messrs. Sweet, Cook, and many more, were refused, although tendered by old and undoubted freeholders, who were also ready to be sworn.

After the Returning Officer had acted for days on his rule, that no person born in a foreign country should vote without a certificate, a violent partisan of the Executive, Jacob D. Hagerman, came forward, admitted he was born in Germany, produced no certificate, and although it is understood that he and his brother, who voted upon the same lot, came in after 1827, and have not been naturalized, his vote for Mr. Thomson was recorded.

One Henry Miller, a drunken, disorderly character, who had been disturbing the poll for some time, and who has been often in the House of Correction here, was persuaded to tender his vote for Mr. Thomson; but although it was very doubtful whether he was aware of the nature of the oaths he took, and there was little reason to believe him a freeholder, his vote was at once recorded.

Postmasters and other dependent persons, excluded by the laws of England (adopted here) from interfering at elections, openly busied themselves, electioneered, and voted, although your petitioner objected to these proceedings.

Other officers of the Government subscribed money, and actively busied themselves at the election. Funds were collected from persons connected with the Executive and others, and employed in collecting, bringing up, treating, and intoxicating voters against your petitioner—in keeping taverns and pot-houses, the resort of worthless and disorderly persons, open, free of cost to them—and in collecting bullies and men of bad repute about the hustings. to the terror of peaceable farmers.

Priests, pensioned and hired by money, paid them by His Ex-

cellency and his Government, busied themselves to prevent the freedom of election, and to bias the minds of the electors.

William B. Jarvis, Esq., Sheriff of this District, interfered openly at the election, stood at the hustings with a whip in his hand, and harangued those present, reminding them that the Reformers were their enemies, and must be put down. He then came forward as a voter, and made use of most violent and intemperate language, calculated to promote disturbance. This conduct the Returning Officer did not check.

And your petitioner is advised, that the said Edward William Thomson was a party, in several instances, to the treating, bribery, threats, promises, and other illegal steps, of which complaint is herein made; and he contends that the return of the said Edward William Thomson, as a Member to serve in this present Parliament, is illegal, void, and unconstitutional, because he was not elected by the greatest number of qualified votes of the said Riding, as there is a majority of the said votes in favor of your petitioner; because the election was not lawfully conducted, but interfered with by the Lieutenant Governor and his officers, by the Orange Lodges, by the treating, force, and violence, and by the partiality and injustice of the Returning Officer.

Bribery, intimidation, and violence, as well as the unconstitutional exercise of the Royal prerogative and the Executive influence, were means made use of to induce electors to vote against your petitioner, or to prevent their voting for him—means utterly subversive of the freedom and purity of election.

Your petitioner further represents that the freedom and purity of the election and the rights of the electors were violated by combinations of persons in illegal societies, known by the name of Orange Lodges, formed for political purposes, secretly, if not openly, countenanced by His Excellency, the Lieutenant Governor, and usually headed and aided by magistrates and other officeholders, and exercising, by means of these illegal associations, an unconstitutional power and influence in the said election.

Your petitioner humbly prays that the election and return of the said Edward William Thomson may be declared null and void, by reason of the matters hereinbefore contained; that a new election may take place, so that the people may be truly and fairly represented; that the conduct of the Lieutenant Governor, his officers, the Returning Officer, and others, as above referred to, may be carefully inquired into, the result made known, and such proceedings had, if found necessary, as shall secure to the electors, in all time to come, a free and faithful representation in the Legislature.

And your petitioner will ever pray.

WM. L. MACKENZIE.

Toronto, 20th December, 1836.

I append the following extract from Dr. Duncombe's letter to Lord Glenelg, dated London, September 20, 1836:—

“The following are some of the many instances of the unconstitutional interference by Sir F. B. Head and his dependents with the elective franchise.

“William Higgins, Bailiff to the Sheriff and Court of Requests, Toronto city, voted against the Reform candidate upon a deed signed by Sir F. B. Head, 27th June, 1836.

“George Walton, Bailiff, and Sub-Sheriff, after electioneering for the Tory candidate, took the oaths and voted upon about half an acre without buildings on it—patent dated the Monday previous.

“John Powell, Attorney, and grandson of the late Chief Justice, voted against the Reform candidate upon a quarter acre of land upon which there were no buildings—grant by Sir F. B. Head, 28th of June, 1836, during the progress of the election.

“Finlay Cameron voted against the Reform candidate—patent signed by Sir F. B. Head, during the election, 20th June, 1836.

“John Crichton and Hugh McLellan voted against the Reform candidate under a grant of Sir F. B. Head—patents dated 25th June, 1836.

“Alderman Doctor John King, of the city of Toronto, voted

against the Reform candidate in the Second Riding of York, under a grant of Sir F. B. Head of about one quarter of an acre of land without a house, dated during the election, 28th June, 1836.

“Robert Ruston and Thomas Johnson voted against the Reform candidate upon free grants from the Crown for one hundred acres each—patents dated 25th June, 1836. Most of the above persons resided out of the Second Riding of York where they voted.

“It is further alleged that many votes were created by giving patents to persons who had commuted their pensions, and who, without having any special claim for land, had been allowed to occupy small parcels under a license of occupation, without the power to dispose of it, contrary to the original intent of the location.

“That patents have been issued for parts of lots without a description of the part, when only a part of the original purchase money had been paid, contrary to the original order under which the same was located.

“That in other instances patents have been issued to individuals for the whole of the lots they had contracted for, without the payment of the whole of the purchase money originally demanded, contrary to the uniform practice which requires that the whole of the money shall be paid before the patent shall be issued; in all these cases the persons thus favored voted for the Tory candidate, and in no one instance did any of those persons vote for the Reform candidate.

“These examples serve to show some of the many ways by which votes were created by Sir F. B. Head, to support the Tory candidates and overwhelm the Reformers in different parts of the Province.”

APPENDIX D.

THE FOLLOWING DECLARATION WAS ADOPTED ON THE 31ST JULY,
AND PUBLISHED IN THE "CONSTITUTION" AUGUST 2, 1837.

*The Declaration of the Reformers of the City of Toronto to their
Fellow Reformers in Upper Canada.*

THE time has arrived, after nearly half a century's forbearance under increasing and aggravated misrule, when the duty we owe our country and posterity requires from us the assertion of our rights and the redress of our wrongs.

Government is founded on the authority, and is instituted for the benefit, of a people; when, therefore, any Government long and systematically ceases to answer the great ends of its foundation, the people have a natural right given them by their Creator to seek after and establish such institutions as will yield the greatest quantity of happiness to the greatest number.

Our forbearance heretofore has only been rewarded with an aggravation of our grievances; and our past inattention to our rights has been ungenerously and unjustly urged as evidence of the surrender of them. We have now to choose on the one hand between submission to the same blighting policy as has desolated Ireland, and, on the other hand, the patriotic achievement of cheap, honest, and responsible government.

The right was conceded to the present United States, at the close of a successful revolution, to form a constitution for themselves; and the loyalists with their descendants and others, now peopling this portion of America, are entitled to the same liberty without the shedding of blood—more they do not ask; less they ought not to have. But, while the revolution of the former has been rewarded with a consecutive prosperity unexampled in the history of the world, the loyal valor of the latter alone remains amidst the blight of misgovernment to tell them what they might have been as the not less valiant sons of American independence. Sir Francis Head has too truly portrayed our country "as standing in the flourishing continent of North America like a girdled

tree with its drooping branches." But the laws of nature do not, and those of men ought not, longer to doom this remnant of the new world to exhibit this invidious and humiliating comparison.

The affairs of this country have been ever against the spirit of the Constitutional Act, subjected in the most injurious manner to the interferences and interdictions of a succession of Colonial Ministers in England who have never visited the country, and can never possibly become acquainted with the state of parties, or the conduct of public functionaries, except through official channels in the Province, which are illy calculated to convey the information necessary to disclose official delinquencies and correct public abuses. A painful experience has proved how impracticable it is for such a succession of strangers beneficially to direct and control the affairs of the people four thousand miles off; and being an impracticable system, felt to be intolerable by those for whose good it was professedly intended, it ought to be abolished, and the domestic institutions of the Province so improved and administered by the local authorities as to render the people happy and contented. This system of baneful domination has been uniformly furthered by a Lieutenant Governor sent amongst us as an uninformed, unsympathising stranger, who, like Sir Francis, has not a single feeling in common with the people, and whose hopes and responsibilities begin and end in Downing Street. And this baneful domination is further cherished by a Legislative Council not elected and therefore responsible to people for whom they legislate, but appointed by the ever changing Colonial Minister for life, from pensioners on the bounty of the Crown, official dependents and needy expectants.

Under this mockery of human government we have been insulted, injured, and reduced to the brink of ruin. The due influence and purity of all our institutions have been utterly destroyed. Our Governors are mere instruments for effecting domination from Downing Street; Legislative Councillors have been intimidated into executive compliance, as in the case of the late Chief Justice Powell, Mr. Baby, and others; the Executive Council has been

stript of every shadow of responsibility, and of every shade of duty; the freedom and purity of elections have lately received, under Sir Francis Head, a final and irretrievable blow; our revenue has been and still is decreasing to such an extent as to render heavy additional taxation indispensable for the payment of the interest of our public debt, incurred by a system of improvident and profligate expenditure, our public lands, although a chief source of wealth to a new country, have been sold at a low valuation to speculating companies in London, and resold to the settlers at very advanced rates, the excess being remitted to England to the serious impoverishment of the country; the ministers of religion have been corrupted by the prostitution of the casual and territorial revenue to salary and influence them; our Clergy Reserves, instead of being devoted to the purpose of general education, though so much needed and loudly demanded, have been in part sold to the amount of upwards of 300,000 dollars, paid into the military chest and sent to England; numerous rectories have been established, against the almost unanimous wishes of the people, with certain exclusive, ecclesiastical, and spiritual rights and privileges, according to the Established Church of England, to the destruction of equal religious rights; public salaries, pensions, and sinecures, have been augmented in number and amount, notwithstanding the impoverishment of our revenue and country; and this parliament have, under the name of arrearages, paid the retrenchments made in past years by Reform parliaments; our Judges have, in spite of our condition, been doubled, and wholly selected from the most violent political partisans against our equal civil and religious liberties, and a Court of Chancery suddenly adopted by a subservient parliament, against the long cherished expectations of the people against it, and its operation fearfully extended into the past so as to jeopardize every title and transaction from the beginning of the Province to the present time. A law has been passed enabling Magistrates, appointed during pleasure, at the representation of a Grand Jury selected by a Sheriff holding office during plea-

sure, to tax the people at pleasure, without their previous knowledge or consent, upon all their rateable property to build and support work-houses for the refuge of the paupers invited by Sir Francis from the parishes in Great Britain; thus unjustly and wickedly laying the foundation of a system which must result in taxation, pestilence, and famine. Public loans have been authorized by improvident legislation to nearly eight millions of dollars, the surest way to make the people both poor and dependent; the parliament, subservient to Sir Francis Head's blighting administration, have by an unconstitutional act sanctioned by him, prolonged their duration after the demise of the Crown, thereby evading their present responsibility to the people, depriving them of the exercise of their elective franchise on the present occasion, and extending the period of their unjust, unconstitutional, and ruinous legislation with Sir Francis Head; our best and most worthy citizens have been dismissed from the bench of justice, from the militia, and other stations of honor and usefulness, for exercising their rights as freemen in attending public meetings for the regeneration of our condition, as instanced in the case of Dr. Baldwin, Messrs. Scatchard, Johnson, Small, Ridout, and others; those of our fellow subjects who go to England to represent our deplorable condition are denied a hearing, by a partial, unjust, and oppressive government, while the authors and promoters of our wrongs are cordially and graciously received, and enlisted in the cause of our further wrongs and misgovernment; our public revenues are plundered and misapplied without redress, and unavailable securities make up the late defalcation of Mr. P. Robinson, the Commissioner of Public Lands, to the amount of 80,000 dollars. Interdicts are continually sent by the Colonial Minister to the Governor, and by the Governor to the Provincial Parliament, to restrain and render futile their legislation, which ought to be free and unshackled; these instructions, if favorable to the views and policy of the enemies of our country, are rigidly observed; if favorable to public liberty, they are, as in the case of Earl Ripon's despatch,

utterly contemned, even to the passing of the ever to be remembered and detestable Everlasting Salary Bill; Lord Glenelg has sanctioned, in the King's name, all the violations of truth and of the constitution by Sir Francis Head, and both thanked and titled him for conduct, which, under any civilized government, would be the ground of impeachment.

The British Government, by themselves and through the Legislative Council of their appointment, have refused their assent to laws the most wholesome and necessary for the public good, among which we may enumerate the Intestate Estate equal distribution bill; the bill to sell the Clergy Reserves for educational purposes; the bill to remove the corrupt influence of the Executive in the choosing of juries, and to secure a fair and free trial by jury; the several bills to encourage emigration from foreign parts; the bills to secure the independence of the Assembly; the bill to amend the law of libel; the bills to appoint commissioners to meet others appointed by Lower Canada, to treat on matters of trade and other matters of deep interest; the bills to extend the blessings of education to the humbler classes in every township, and to appropriate annually a sum of money for that purpose; the bill to dispose of the school lands in aid of education; several bills for the improvement of the highways; the bill to secure independence to voters by establishing the vote by ballot; the bill for the better regulation of the elections of members of the Assembly, and to provide that they be held at places convenient for the people; the bills for the relief of Quakers, Mennonists, and Tunkers; the bill to amend the present obnoxious courts of requests laws, by allowing the people to choose the commissioners, and to have a trial by jury if desired; with other bills to improve the administration of justice and diminish unnecessary costs; the bills to amend the charter of King's College University so as to remove its partial and arbitrary system of government and education; and the bill to allow free competition in banking.

The King of England has forbidden his governors to pass laws

of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them. He has interfered with the freedom of elections, and appointed elections to be held at places dangerous, inconvenient, and unsafe for the people to assemble at, for the purpose of fatiguing them into his measures, through the agency of pretended representatives; and has, through his Legislative Council, prevented provision from being made for quiet and peaceable elections, as in the case of the late returns at Beverley.

He has dissolved the late House of Assembly for opposing with manly firmness Sir Francis Head's invasion of the right of the people to a wholesome control over the revenue, and for insisting that the persons conducting the government should be responsible for their official conduct to the country through its representatives.

He has endeavored to prevent the peopling of this Province and its advancement in wealth; for that purpose obstructing the laws for the naturalization of foreigners, refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of the public lands, large tracts of which he has bestowed upon unworthy persons his favorites, while deserving settlers from Germany and other countries have been used cruelly.

He has rendered the administration of justice liable to suspicion and distrust, by obstructing laws for establishing a fair trial by jury, by refusing to exclude the chief criminal Judge from interfering in political business, and by selecting as the judiciary, violent and notorious partisans of his arbitrary power.

He has sent a standing army into the sister Province to coerce them to his unlawful and unconstitutional measures, in open violation of their rights and liberties, and has received with marks of high approbation military officers who interfered with the citizens of Montreal, in the midst of an election of their representatives, and brought the troops to coerce them, who shot several persons dead wantonly in the public streets.

Considering the great number of lucrative appointments held

by strangers to the country, whose chief merit appears to be their subservience to any and every administration, we may say with our brother colonists of old—"He has sent hither swarms of new officers to harass our people and eat out their substance."

The English Parliament have interfered with our internal affairs and regulations, by the passage of grievous and tyrannical enactments, for taxing us heavily without our consent, for prohibiting us to purchase many articles of the first importance at the cheapest European or American markets, and compelling us to buy such goods and merchandise at an exorbitant price in markets of which England has a monopoly.

They have passed resolutions for our coercion, of a character so cruel and arbitrary, that Lord Chancellor Brougham has recorded on the journals of the House of Peers, that "they set all considerations of sound policy, of generosity, and of justice, at defiance," are wholly subversive of "the fundamental principle of the British constitution, that no part of the taxes levied on the people shall be applied to any purpose whatever, without the consent of the representatives in Parliament," and that the Canadian "precedent of 1837 will ever after be cited in the support of such oppressive proceedings, as often as the Commons of any colony may withhold supplies, how justifiable soever their refusal may be;" and (adds his lordship) "those proceedings, so closely resembling the fatal measures that severed the United States from Great Britain, have their origin in principles, and derive their support from reasonings, which form a prodigious contrast to the whole grounds, and the only defence, of the policy during latter years, and so justly and so wisely sanctioned by the Imperial Parliament, in administering the affairs of the mother country. Nor is it easy to imagine that the inhabitants of either the American or the European branches of the empire should contemplate so strange a contrast, without drawing inferences therefrom discreditable to the character of the Legislature, and injurious to the future safety of the state, when they mark with what different measures we mete to six hundred thousand inhabitants of a remote province, unrepresented in Parliament, and

to six millions of our fellow citizens nearer home, and making themselves heard by their representatives. The reflection will assuredly arise in Canada, and may possibly find its way into Ireland, that the sacred rules of justice, the most worthy feelings of national generosity, and the soundest principles of enlightened policy, may be appealed to in vain, if the demands of the suitor be not also supported by personal interests, and party views, and political fears, among those whose aid he seeks; while all men perceiving that many persons have found themselves at liberty to hold a course towards an important but remote province, which their constituents never would suffer to be pursued towards the most inconsiderable burgh of the United Kingdom, an impression will inevitably be propagated most dangerous to the maintenance of colonial dominion, that the people can never safely intrust the powers of government to any supreme authority not residing among themselves."

In every stage of these proceedings we have petitioned for redress in the most humble terms; our repeated petitions have been answered only by repeated injuries.

Nor have we been wanting in attention to our British brethren. We have warned them from time to time of attempts by their Legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations which would inevitably interrupt our connection and correspondence. They too have been deaf to the voice of justice and consanguinity.

We, therefore, the Reformers of the City of Toronto, sympathizing with our fellow citizens here and throughout the North American Colonies, who desire to obtain cheap, honest, and responsible government, the want of which has been the source of all their past grievances, as its continuance would lead them to their utter ruin and desolation, are of opinion, 1. That the warmest thanks and admiration are due from the Reformers of Upper Canada to the Honorable Louis Joseph Papineau, Esq., Speaker

of the House of Assembly of Lower Canada, and his compatriots in and out of the Legislature, for their past uniform, manly, and noble independence, in favor of civil and religious liberty; and for their present devoted, honorable, and patriotic opposition to the attempt of the British Government to violate their constitution without their consent, subvert the powers and privileges of their local parliament, and overawe them by coercive measures into a disgraceful abandonment of their just and reasonable wishes.

2. And that the Reformers of Upper Canada are called upon by every tie of feeling, interest, and duty, to make common cause with their fellow citizens of Lower Canada, whose successful coercion would doubtless be in time visited upon us, and the redress of whose grievances would be the best guarantee for the redress of our own.

To render this co-operation the more effectual, we earnestly recommend to our fellow citizens that they exert themselves to organize political associations; that public meetings be held throughout the Province; and that a convention of delegates be elected, and assembled at Toronto, to take into consideration the political condition of Upper Canada, with authority to its members to appoint commissioners to meet others to be named on behalf of Lower Canada and any of the other colonies, armed with suitable powers as a Congress, to seek an effectual remedy for the grievances of the colonists.

T. D. MORRISON, *Chairman of Com.* JOHN ELLIOT, *Secretary.*

COMMITTEE.

David Gibson.	Edward Wright.
John Mackintosh.	Robert McKay.
Wm. J. O'Grady.	Thomas Elliott.
E. B. Gilbert.	James Armstrong.
John Montgomery.	James Hunter.
John Edward Tims.	John Armstrong.
James H. Price.	William Ketchum.
John Doel.	Wm. L. Mackenzie.
M. Reynolds	

Dr. Morrison addressed the meeting at great length, and was enthusiastically cheered. He then moved, seconded by Mr. E. B. Gilbert, that the report of the special committee, just read as above, be adopted as the sense of this meeting, and that the declaration of the Reformers of this city be countersigned by the Secretary on behalf of this meeting. Which was agreed to by acclamation.

Edward Wright, Esq., seconded by Mr. James Armstrong, moves that it be

Resolved, That, reposing the greatest confidence in our fellow citizens, John Rolph, M. P. P., Marshal S. Bidwell, T. D. Morrison, M. P. P., James Lesslie, James H. Price, John Edward Tims, and Robert McKay, Esquires, we do hereby nominate and appoint them members of the Provincial Convention for the City of Toronto.—Carried unanimously and by acclamation.

Moved by John Edward Tims, Esq., seconded by Mr. Robert McKay,

Resolved, That the members of the Committee who have reported the draft of a declaration of the Reformers of Toronto, be a permanent Committee of Vigilance, for this city and liberties, and to carry into immediate and practical effect the resolutions of this meeting for the effectual organization of the Reformers of Upper Canada—that Mr. John Elliot be requested to continue to officiate as the Secretary in ordinary—that *W. L. Mackenzie, Esq., be invited to perform the important duties of Agent and Corresponding Secretary*—and that when this meeting adjourns it stand adjourned to the call of the said committee through its chairman.—Carried unanimously.

Mr. John Doel, seconded by Mr. M. Reynolds, moves that it be

Resolved, That we will, in the pursuit of the objects of this meeting, as far as possible, rigidly abstain, so long as our duty to our country requires it, from the consumption of articles coming from beyond sea, or paying duties, in order that no revenues raised from the people shall be made instrumental in the continuance of their bad government, which will assuredly be perpetu-

ated as long as our folly supplies the means.—Carried—ten to one.

Mr. Mackenzie, seconded by Mr. James Hunter, moves—*Resolved*, That the right of obtaining articles of luxury, or necessity, in the cheapest market, is inherent in the people, who only consent to the imposition of duties for the creation of revenues with the express understanding that the revenues so raised from them shall be devoted to the necessary expenses of government, and apportioned by the people's representatives; and therefore when the contract is broken by an Executive or any foreign authority, the people are released from their engagement, and are no longer under any moral obligation to contribute to, or aid in the collection of, such revenues. Mr. M. briefly addressed the meeting in favor of the resolution, which was put and carried without opposition.

(Signed) JOHN MACKINTOSH, *Chairman*.

JOHN ELLIOT, *Secretary*.

After which, D. Gibson, Esq., M. P. P., took the chair, the meeting returned thanks to its officers, for their services, and adjourned to the call of the Chairman of the Committee of Vigilance.

APPENDIX E.

THE following draft of Constitution was prepared by Mr. Mackenzie, to be submitted to the proposed convention for adoption, after a Provisional Government should have been established in Upper Canada. It was actually published by Mr. Mackenzie in *The Constitution*, on the 15th of November, 1837, a few days before the 7th of December was fixed upon for a descent upon Toronto. When he left Toronto for the country, thirteen days before the intended outbreak, he took a small press and a printer with him, for the purpose of striking off copies of this document.

The Constitution of the United States was the model on which this was formed; the variations being chiefly the result of different circumstances:—

WHEREAS the solemn covenant made with the people of Upper and Lower Canada, and recorded in the statute book of the United Kingdom of Great Britain and Ireland, as the thirty-first chapter of the Acts passed in the thirty-first year of the reign of King George III., hath been continually violated by the British Government, and our rights usurped; *And Whereas* our humble petitions, addresses, protests, and remonstrances against this injurious interference have been made in vain—We, the people of the State of Upper Canada, acknowledging with gratitude the grace and beneficence of God, in permitting us to make choice of our form of Government, and in order to establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of civil and religious liberty to ourselves and our posterity, do establish this Constitution.

1. Matters of religion and the ways of God's worship are not at all intrusted by the people of this State to any human power, because therein they cannot remit or exceed a tittle of what their consciences dictate to be the mind of God, without willful sin. Therefore the Legislature shall make no law respecting the establishment of religion, or for the encouragement or the prohibition of any religious denomination.

2. It is ordained and declared that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed within this State to all mankind.

3. The whole of the public lands within the limits of this State, including the lands attempted, by a pretended sale, to be vested in certain adventurers called the Canada Company (except so much of them as may have been disposed of to actual settlers now resident in the State), and all the land called Crown Reserves, Clergy Reserves, and rectories and also the school lands,

and the lands pretended to be appropriated to the uses of the University of King's College, are declared to be the property of the State, and at the disposal of the Legislature, for the public service thereof.* The proceeds of one million of acres of the most valuable public lands shall be specially appropriated to the support of Common or Township schools.

4. No Minister of the Gospel, clergyman, ecclesiastic, bishop or priest of any religious denomination whatsoever, shall, at any time hereafter, under any pretence or description whatever, be eligible to, or capable of holding a seat in the Senate or House of Assembly, or any civil or military office within this State.

5. In all laws made, or to be made, every person shall be bound alike—neither shall any tenure, estate, charter, degree, birth, or place, confer any exemption from the ordinary course of legal proceedings and responsibilities whereunto others are subjected.

6. No hereditary emoluments, privileges, or honors, shall ever be granted by the people of this State.

7. There shall neither be slavery nor involuntary servitude in this State, otherwise than for the punishment of crimes whereof the party shall have been duly convicted. People of color, who have come into this State, with the design of becoming permanent inhabitants thereof, *and are now resident therein*, shall be entitled to all the rights of native Canadians, upon taking an oath or affirmation to support the constitution.

* Without explanation this would look like a proposal to confiscate the lands of the Canada Company; but the question of their reverting to the Crown had been raised by the company itself several years before. The company complained that, in continuing to dispose of Crown Lands, the government was forcing upon it an impossible competition, and they threatened to resign their charter. The Lieutenant Governor of the day, Sir John Colborne, gave as a reason for not acting upon the threat, and receiving the lands back, that it was impossible to do without the revenue. Mr. Mackenzie doubtless argued that if the company was at liberty to give up its charter, if it suited its own interest to do so, it might be forfeited upon re-payment of the purchase money, in the interest of the public.

8. The people have a right to bear arms for the defence of themselves and the State.

9. No man shall be impressed or forcibly constrained to serve in time of war; because money, the sinews of war, being always at the disposal of the Legislature, they can never want numbers of men apt enough to engage in any just cause.

10. The military shall be kept under strict subordination to the civil power. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

11. The Governor, with the advice and consent of the Senate, shall choose all militia officers above the rank of Captain. The people shall elect their own officers of the rank of Captain, and under it.

12. The people have a right to assemble together in a peaceful manner, to consult for their common good, to instruct their representatives in the Legislature, and to apply to the Legislature for redress of grievances.

13. The printing presses shall be open and free to those who may wish to examine the proceedings of any branch of the government, or the conduct of any public officer; and no law shall ever restrain the right thereof.

14. The trial by jury shall remain for ever inviolate.

15. Treason against this State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

15A. No ex post facto law, nor any law impairing the validity of legal compacts, grants, or contracts, shall ever be made; and no conviction shall work corruption of blood or forfeiture of estate.

16. The real estate of persons dying without making a will shall not descend to the eldest son to the exclusion of his brethren, but be equally divided among the children, male and female.

17. The laws of Entail shall be forever abrogated.

17A. There shall be no lotteries in this State. Lottery tickets shall not be sold therein, whether foreign or domestic.

18. No power of suspending the operation of the laws shall be exercised except by the authority of the Legislature.

19. The people shall be secure in their persons, papers, and possessions, from all unwarrantable searches and seizures; general warrants, whereby an officer may be commanded to search suspected places, without probable evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described, and without oath or affirmation, are dangerous to liberty, and shall not be granted.

20. Private property ought, and will ever be held inviolate, but always subservient to the public welfare, provided a compensation in money be first made to the owner. Such compensation shall never be less in amount than the actual value of the property.

21. *And Whereas* frauds have been often practiced towards the Indians within the limits of this State, it is hereby ordained, that no purchases or contracts for the sale of lands made since the — day of — in the year —, or which may hereafter be made with the Indians, within the limits of this State, shall be binding on the Indians and valid, unless made under the authority of the Legislature.

22. The Legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Assembly, both to be elected by the people.

23. The Legislative year shall begin on the — day of —, and the Legislature shall every year assemble on the second Tuesday in January, unless a different day be appointed by law.

24. The Senate shall consist of twenty-four members. The Senators shall be freeholders and be chosen for four years. The House of Assembly shall consist of seventy-two members, who shall be elected for two years.

25. The State shall be divided into six senate districts, each of which shall choose four Senators.

The first district shall consist of, &c.

The second district shall, &c.—(and so on, as a convention may decide.)

26. An enumeration of the inhabitants of the State shall be taken, under the direction of the Legislature, within one year after the first meeting of the General Assembly, and at the end of every four years thereafter; and the senate districts shall be so altered by the Legislature after the return of every convention, that each senate district shall contain, as nearly as may be, an equal number of inhabitants, and at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district.

27. The Members of the House of Assembly shall be chosen by counties, and be apportioned among the several counties of the State, as nearly as may be, according to the numbers of their respective inhabitants. An apportionment of Members of Assembly shall be made by the Legislature, at its first session after the return of every enumeration.

28. In all elections of Senators and Members of the House of Assembly, the person or persons having the highest number of votes shall be elected. In cases in which two or more persons have an equal number of votes, where only one is required to be elected, there shall be a new election.

29. All elections shall be held at those places which may be considered by the electors to be the most central and convenient for them to assemble at. No county, district, or township election shall continue for a longer period than two days.

30. In order to promote the freedom, peace, and quiet of elections, and to secure, in the most ample manner possible, the independence of the poorer classes of the electors, it is declared that all elections by the people, which shall take place after the first session of the Legislature of this State, shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen.

31. Electors shall in all cases, except treason, felony, or breach

of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from them.

32. The next election for Governor, Senators, and Members of Assembly, shall commence on the first Monday of — next; and all subsequent elections shall be held at such time in the month of — or —, as the Legislature shall by law provide.

33. The Governor, Senators, and Members of Assembly shall enter on the duties of their respective offices on the first day of — next.

34. And as soon as the Senate shall meet, after the first election to be held in pursuance of this Constitution, they shall cause the Senators to be divided by lot, into four classes, of six in each, so that every district shall have one Senator of each class; the classes to be numbered 1, 2, 3, and 4. And the seats of the first class shall be vacated at the end of the first year; of the second class, at the end of the second year; of the third class, at the end of the third year; of the fourth class, at the end of the fourth year; in order that one Senator may be annually elected in each senate district.

35. A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent members. Neither House shall, without the consent of the other, adjourn for more than two days.

36. Each House shall choose its Speaker, Clerk, and other officers.

37. In each House the votes shall, in all cases when taken, be taken openly, and not by ballot, so that the electors may be enabled to judge of the conduct of their representatives.

38. Each House shall keep a Journal of its proceedings, and publish the same except such parts as may require secrecy.

39. Each House may determine the rules of its own proceedings, judge of the qualifications of its members, punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member, but not a second time for the same cause.

40. Any bill may originate in either House of the Legislature;

and all bills passed by one House may be amended or rejected by the other.

41. Every bill shall be read on three different days in each House—unless, in case of urgency, three-fourths of the whole members of the House where such bill is so depending shall deem it expedient to dispense with this rule; in which case the names of the majority or members present and consenting to dispense with this rule shall be entered on the Journals.

42. Every bill, which shall have passed the Senate and Assembly, shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it; but if not, he should return it with his objections to that House in which it shall have originated, which shall enter the objections on its Journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two-thirds of the members present it shall become a law. In all such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journals of each House respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislature shall, by its adjournment, prevent its return, in which case it shall not be a law.

43. No member of the Legislature, who has taken his seat as such, shall receive any civil appointment from the Governor and Senate, or from the Legislature, during the term for which he shall have been elected.

44. The assent of the Governor, and of three-fourths of the members elected to each branch of the Legislature, shall be requisite to authorize the passage of every bill appropriating the public moneys or property for local or private purposes, or for creating, continuing, altering, or renewing any body politic or

corporate; and the yeas and nays shall be entered on the Journals at the time of taking the vote on the final passage of any such bill.

45. The Members of the Legislature shall receive for their services a compensation to be ascertained by law and paid out of the public treasury.

46. Members of the General Assembly shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their continuance as such members; and for any speech or debate in either House, they shall not be questioned in any other place.

46A. No person shall be a Senator or Member of the House of Assembly who shall not have attained the age of — years, and been — years a citizen of the State, and who shall not, when elected, be an inhabitant of the State.

47. No Judge of any Court of Law or Equity, Secretary of State, Attorney General, Register of Deeds, Clerk of any Court of Record, Collector of Customs or Excise Revenue, Postmaster or Sheriff, shall be eligible as a candidate for, or have a seat in, the General Assembly.

48. No person who hereafter may be a collector or holder of the public moneys, shall have a seat in the General Assembly, until such person shall have accounted for and paid into the treasury all sums for which he may be accountable or liable.

49. All officers holding their offices during good behavior, or for a term of years, may be removed by joint resolution of the two Houses of the Legislature, if two-thirds of all the members elected to the Assembly, and a majority of all the members elected to the Senate, concur therein.

50. The House of Assembly shall have the sole power of impeaching, but a majority of all its members must concur in an impeachment.

51. All impeachments shall be tried by the Senate, and when sitting for that purpose, its members shall be on oath or affirmation to do justice according to law or evidence; no person shall

be convicted without the concurrence of two-thirds of all the Senators.

51. The Legislature shall have power to pass laws for the peace, welfare, and good government of this State, not inconsistent with the spirit of this Constitution—To coin money, regulate the value thereof, and provide for the punishment of those who may counterfeit the securities and coin of this State.

I. To fix the standard of Weights and Measures.

II. To establish a uniform rule of Naturalization.

III. To establish uniform laws on the subject of Bankruptcies.

IV. To regulate Commerce.

V. To lay and collect Taxes.

VI. To borrow money on the credit of the State, not, however, without providing at the same time the means, by additional taxation or otherwise, of paying the interest, and of liquidating the principal within twenty years.

VII. To establish Post Offices and Post Roads.

52. Gold and Silver shall be the only lawful tender in payment of debts.

53. No new County shall be established by the General Assembly, which shall reduce the County or Counties, or either of them, from which it shall be taken, to less contents than four hundred square miles, nor shall any County be laid off of less contents.

54. There shall be no sinecure offices. Pensions shall be granted only by authority of the Legislature.

55. The whole public revenue of this State, that is, all money received from the public, shall be paid into the treasury, without any deduction whatever, and be accounted for without deduction to the Legislature, whose authority shall be necessary for the appropriation of the whole. A regular statement and account of the receipt and expenditures of all public money shall be published once a year or oftener. No fees of office shall be received in any department which are not sanctioned by Legislative authority.

56. There shall never be created within this State any incorporated trading companies, or incorporated companies with banking powers. Labor is the only means of creating wealth.

57. Bank Notes of a lesser nominal value than — shall not be allowed to circulate as money, or in lieu thereof.

58. The Executive power shall be vested in a Governor. He shall hold his office for three years. No person shall be eligible to that office who shall not have attained the age of thirty years.

59. The Governor shall be elected by the people at the times and places of choosing Members of the Legislature. The person having the highest number of votes shall be elected; but in case two or more persons shall have an equal, and the highest number of votes, the two Houses of the Legislature shall, by joint vote, (not by ballot,) choose one of the said persons for Governor.

60. The Governor shall have power to convene the Legislature, or the Senate only, on extraordinary occasions. He shall communicate by message to the Legislature at every session, the condition of the State, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government; expedite all such measures as may be resolved upon by the Legislature; and take care that the laws are faithfully executed. He shall, at stated times, receive a compensation for his services, which shall neither be increased nor diminished during the term for which he shall have been elected.

61. The Governor shall have power to grant reprieves and pardon, after conviction, for all offences, except in cases of impeachment. A notice of all such pardons or reprieves shall be published, at the time, in some newspaper published at the seat of government.

62. The Governor shall nominate by message, in writing, and, with the consent of the Senate, shall appoint the Secretary of State, Comptroller, Receiver General, Auditor General, Attorney General, Surveyor General, Postmaster General, and also all

Judicial Officers, except Justices of the Peace and Commissioners of the Courts of Request, or Local Courts.

63. In case of the death, impeachment, resignation, or removal of the Governor from office, the Speaker of the Senate shall perform all the duties of Governor, until another Governor shall be elected and qualified, or until the Governor so impeached shall be acquitted, as the case may be.

64. The Executive authority shall issue writs of election to fill up vacancies in the representation of any part of the Province in the General Assembly.

65. The Judicial power of the State, both as to matters of law and equity, shall be vested in a Supreme Court, the members of which shall hold office during good behavior, in District or County Courts, in Justices of the Peace, in Courts of Request, and in such other Courts as the Legislature may from time to time establish.

66. A competent number of Justices of the Peace and Commissioners of the Courts of Request shall be elected by the people, for a period of three years, within their respective cities and townships.

67. All courts shall be open, and every person for any injury done him in his lands, goods, person, or reputation, shall have remedy by the due course of law; and right and justice shall be administered without delay or denial.

68. Excessive bail shall not be required; excessive fines shall not be imposed, nor cruel and unusual punishments inflicted.

69. All persons shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident or the presumption great; and the privilege of the writ of Habeas Corpus shall not be suspended by any act of the Legislature, unless, when in cases of actual rebellion or invasion, the public safety may require it.

70. In all criminal prosecutions, the accused hath a right to be heard by himself and his Counsel, to demand the nature and cause of the accusation against him, and to have a copy thereof;

to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment a speedy public trial, by an impartial and fairly selected jury of the County, District, or Division in which the offence shall be stated to have been committed; and shall not be compelled to give evidence against himself—nor shall he be twice put in jeopardy for the same offence.

71. In prosecutions for any publication respecting the official conduct of men in a public capacity, or when the matter published is proper for public information, the truth thereof may always be given in evidence, and in all indictments for libel, the jury shall have a right to determine the law and the fact.

72. No person arrested or confined in jail shall be treated with unnecessary rigor, or be put to answer any criminal charge except by presentment, indictment, or impeachment.

73. It shall be the duty of the Legislature so to regulate the proceedings of Courts of Civil Jurisdiction, that unnecessary delays and extravagant costs in legal proceedings may not be a cause of complaint.

74. Sheriffs, Coroners, Clerks of the Peace, and Registers of Counties or Districts, shall be chosen by the electors of the respective Counties or Districts, once in four years, and as often as vacancies happen. Sheriffs shall hold no other office, and be ineligible for the office of Sheriff for the next two years after the termination of their offices.

75. The Governor and all other Civil Officers under this State, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend farther than removal from office, and disqualification to hold any office of honor, profit, or trust, under this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

76. After this Constitution shall have gone into effect, no person shall be questioned for any thing said or done in reference to the public differences which have prevailed for some time past,

it being for the public welfare and the happiness and peace of families and individuals that no door should be left open for a continued visitation of the effects of past years of misgovernment after the causes shall have passed away.

76A. For the encouragement of emigration, the Legislature may enable aliens to hold and convey real estate, under such regulations as may be found advantageous to the people of this State.

77. The River St. Lawrence of right ought to be a free and common highway to and from the ocean; to be so used, on equal terms, by all the nations of the earth, and not monopolized to serve the interests of any one nation, to the injury of others.

78. All powers not delegated by this Constitution remain with the people.

79. Such parts of the common law, and of the acts of the Legislature of the Colony of Upper Canada, as together did form the law of the said colony on the ——— day of ——— shall be and continue the law of this State, subject to such alterations as the Legislature shall make concerning the same. But all laws, or part of laws, repugnant to this Constitution are hereby abrogated.

80. The Senators and Members of the House of Assembly, before mentioned, and all Executive and Judicial Officers within this State, shall, before entering upon the duties of their respective offices or functions be bound, by an oath or solemn affirmation, to support the Constitution; but no religious test shall ever be required as a qualification to any office or public trust under this State.

81. This Constitution, and the laws of this State, which shall be made in pursuance thereof, and all treaties, made, or which shall be made under the authority of this State, shall be the supreme law of the land, and the judges shall be bound thereby.

Several clauses for the carrying a Constitution like the above into practice are omitted, the whole being only given in illustration of, and for the benefit of a comparison in detail, with other systems.

We have not entered upon the questions, whether any, and if so, what restrictions ought to be laid upon the right of voting, or as to residence in the State, taxation, performance of militia duty, &c. These matters, however, might be advantageously discussed by the public press.

Committee Room, Nov. 13, 1837.

APPENDIX F.

THE following document was printed in handbill form, and distributed among Mackenzie's friends about ten days before the outbreak was to have taken place. Sir F. B. Head is in error in saying (*Emigrant*) that it was published in Mackenzie's newspaper; and that the Attorney General advised His Excellency that this was the first time Mackenzie had overstepped the limits of the law. This is given as an excuse for the government not interfering sooner. The truth is, however, that this document was not printed in the newspaper at all; but secretly and anonymously, in the country; and as to the power of interfering sooner with the preparations for revolt, there could have been no difficulty about it. As early as August Mr. Mackenzie had published in his newspaper an appeal to arms, which, along with the words "Liberty or death," had been paraded on a flag at Lloydtown.

INDEPENDENCE!

There have been Nineteen Strikes for Independence from European Tyranny, on the Continent of America. They were all successful! The Tories, therefore, by helping us will help themselves.

The nations are fallen, and thou still art young,
The sun is but rising when others have set;
And though Slavery's cloud o'er thy morning hath hung,
The full tide of Freedom shall beam round thee yet.

BRAVE CANADIANS! God has put into the bold and honest hearts

of our brethren in Lower Canada to revolt—not against “lawful” but against “unlawful authority.” The law says we shall not be taxed without our consent by the voices of the men of our choice; but a wicked and tyrannical government has trampled upon that law, robbed the exchequer, divided the plunder, and declared, that, regardless of justice, they will continue to roll their splendid carriages, and riot in their palaces, at our expense; that we are poor, spiritless, ignorant peasants, who were born to toil for our betters. But the peasants are beginning to open their eyes and to feel their strength; too long have they been hoodwinked by Baal’s priests—by hired and tampered-with preachers, wolves in sheep’s clothing, who take the wages of sin, and do the work of iniquity, “each one looking to his gain in his quarter.”

CANADIANS! Do you love freedom? I know you do. Do you hate oppression? Who dare deny it? Do you wish perpetual peace, and a government founded upon the eternal heaven-born principle of the Lord Jesus Christ—a government bound to enforce the law to do to each other as you wish to be done by? Then buckle on your armor, and put down the villains who oppress and enslave our country—put them down in the name of that God who goes forth with the armies of his people, and whose Bible shows that it is by the same human means whereby you put to death thieves and murderers, and imprison and banish wicked individuals, that you must put down, in the strength of the Almighty, those governments which, like these bad individuals, trample on the law, and destroy its usefulness. You give a bounty for wolves’ scalps. Why? Because wolves harass you. The bounty you must pay for freedom (blessed word!) is to give the strength of your arms to put down tyranny at Toronto. One short hour will deliver our country from the oppressor; and freedom in religion, peace, and tranquillity, equal laws, and an improved country will be the prize. We contend, that in all laws made, or to be made, every person shall be bound alike—neither should any tenure, estate, charter, degree, birth, or place, confer

any exemption from the ordinary course of legal proceedings and responsibilities whereunto others are subjected.

CANADIANS! God has shown that he is with our brethren, for he has given them the encouragement of success. Captains, Colonels, Volunteers, Artillerymen, Privates, the base, the vile hirelings of our unlawful oppressors, have already bit the dust in hundreds in Lower Canada; and although the Roman Catholic and Episcopal Bishops and Archdeacons are bribed by large sums of money to instruct their flocks that they should be obedient to a government which defies the law, and is therefore unlawful, and ought to be put down; yet God has opened the eyes of the people to the wickedness of these reverend sinners, so that they hold them in derision, just as God's prophet Elijah did the priests of Baal of old and their sacrifices. Is there any one afraid to go to fight for freedom, let him remember, that

God sees with equal eye, as Lord of all,
A hero perish, or a sparrow fall:

That the power that protected ourselves and our forefathers in the deserts of Canada—that preserved from the cholera those whom he would—that brought us safely to this continent through the dangers of the Atlantic waves—aye, and who has watched over us from infancy to manhood, will be in the midst of us in the day of our struggle for our liberties, and for governors of our free choice, who would not dare to trample on the laws they had sworn to maintain. In the present struggle, we may be sure, that if we do not rise and put down Head and his lawless myrmidons, they will gather all the rogues and villains in the country together—arm them—and then deliver our farms, our families, and our country to their brutality. To that it has come, we must put them down, or they will utterly destroy this country. If we move now, as one man, to crush the tyrant's power, to establish free institutions founded on God's law, we will prosper, for He who commands the winds and waves will be with us; but if we are cowardly and mean-spirited, a woeful and a dark day is surely before us.

' CANADIANS ! The struggle will be of short duration in Lower Canada, for the people are united as one man. Out of Montreal and Quebec, they are as one hundred to one—here we Reformers are as ten to one ; and if we rise with one consent to overthrow despotism, we will make quick work of it.

Mark all those who join our enemies, act as spies for them, fight for them, or aid them ; these men's properties shall pay the expense of the struggle ;* they are traitors to Canadian freedom, and as such we will deal with them.

CANADIANS ! It is the design of the friends of liberty to give several hundred acres to every volunteer—to root up the unlawful Canada Company, and give *free deeds* to all settlers who live on their lands ; to give free gifts of the Clergy Reserve lots, to good citizens who have settled on them ; and the like to settlers on Church of England Glebe lots, so that the yeomanry may feel independent, and be able to improve the country, instead of sending the fruit of their labor to foreign lands. The fifty-seven Rectories will be at once given to the people, and all public lands used for education, internal improvements, and the public good. £100,000, drawn from us in payment of the salaries of bad men in office, will be reduced to one quarter, or much less, and the remainder will go to improve bad roads and to "make crooked paths straight;" law will be ten times more cheap and easy—the bickerings of priests will cease with the funds that keep them up—and men of wealth and property from other lands will soon raise our farms to four times their present value. We have given Head and his employers a trial of forty-five years—five years longer than the Israelites were detained in the wilderness. The promised land is now before us—up then and take it—but set not the torch to one house in Toronto, unless we are fired at from the houses, in which case self-preservation will teach us to put down

* At the close of the Revolutionary War of the United States, the property of many of the United Empire Loyalists, who took refuge in the remaining British Colonies, had their property confiscated. There was therefore a precedent for the hard terms threatened in this manifesto.

those who would murder us when up in the defence of the laws. There are some rich men now, as there were in Christ's time, who would go with us in prosperity, but who will skulk in the rear, because of their large possessions—mark them! They are those who in after years will seek to corrupt our people, and change free institutions into an aristocracy of wealth, to grind the poor, and make laws to fetter their energies.

MARK MY WORDS, CANADIANS! The struggle is begun—it might end in freedom; but timidity, cowardice, or tampering on our part, will only delay its close. We cannot be reconciled to Britain—we have humbled ourselves to the Pharaoh of England, to the Ministers and great people, and they will neither rule us justly nor let us go; we are determined never to rest until independence is ours—the prize is a splendid one. A country larger than France or England, natural resources equal to our most boundless wishes; a government of equal laws; religion pure and undefiled; perpetual peace; education to all; millions of acres of lands for revenue; freedom from British tribute; free trade with all the world—but stop—I never could enumerate all the blessings attendant on independence!

Up then, brave Canadians! Get ready your rifles, and make short work of it; a connection with England would involve us in all her wars, undertaken for her own advantage, never for ours; with governors from England, we will have bribery at elections, corruption, villainy, and perpetual discord in every township, but independence would give us the means of enjoying many blessings. Our enemies in Toronto are in terror and dismay; they know their wickedness and dread our vengeance. Fourteen armed men were sent out at the dead hour of night, by the traitor Gurnett, to drag to a felon's cell the sons of our worthy and noble-minded brother departed, Joseph Sheppard, on a simple and frivolous charge of trespass, brought by a Tory fool; and though it ended in smoke, it showed too evidently Head's feelings. Is there to be an end of these things? Aye, and now's the day and the hour! Woe be to those who oppose us, for "In God is our trust."

APPENDIX G

Proclamation by William Lyon Mackenzie, Chairman pro. tem. of the Provincial Government of the State of Upper Canada.

INHABITANTS OF UPPER CANADA!

FOR nearly fifty years has our country languished under the blighting influence of military despots, strangers from Europe, ruling us, not according to laws of our choice, but by the capricious dictates of their arbitrary power.

They have taxed us at their pleasure, robbed our exchequer, and carried off the proceeds to other lands—they have bribed and corrupted Ministers of the Gospel, with the wealth raised by our industry—they have, in place of religious liberty, given Rectories and Clergy Reserves to a foreign priesthood, with spiritual power dangerous to our peace as a people—they have bestowed millions of our lands on a company of Europeans for a nominal consideration, and left them to fleece and impoverish our country—they have spurned our petitions, involved us in their wars, excited feelings of national and sectional animosity in counties, townships, and neighborhoods, and ruled us, as Ireland has been ruled, to the advantage of persons in other lands, and to the prostration of our energies as a people.

We are wearied of these oppressions, and resolved to throw off the yoke. Rise, Canadians! Rise as one man, and the glorious object of our wishes is accomplished.

Our intentions have been clearly stated to the world in the Declaration of Independence, adopted at Toronto on the 31st of July last, printed in the *Constitution, Correspondent and Advocate*, and the *Liberator*, which important paper was drawn up by Dr. John Rolph and myself, signed by the Central Committee, received the sanction of a large majority of the people of the Province, west of Port Hope and Cobourg, and is well known to be in accordance with the feelings and sentiments of nine-tenths of the people of this State.

We have planted the Standard of Liberty in Canada, for the attainment of the following objects :

Perpetual Peace, founded on a government of equal rights to all, secured by a written constitution, sanctioned by yourselves in a convention to be called as early as circumstances will permit.

Civil and Religious Liberty, in its fullest extent, that in all laws made, or to be made, every person be bound alike—neither shall any tenure, estate, charter, birth, or place, confer any exemption from the ordinary course of legal proceedings and responsibilities whereunto others are subjected.

The Abolition of Hereditary Honors, of the laws of Entail and Primogeniture, and of hosts of pensioners who devour our substance.

A Legislature, composed of a Senate and Assembly chosen by the people.

An Executive, to be composed of a Governor and other officers elected by the public voice.

A Judiciary, to be chosen by the Governor and Senate, and composed of the most learned, honorable, and trustworthy, of our citizens. The laws to be rendered cheap and expeditious.

A Free Trial by Jury—Sheriffs chosen by you, and not to hold office, as now, at the pleasure of our tyrants. The freedom of the press. Alas for it, now ! The free presses in the Canadas are trampled down by the hand of arbitrary power.

The Vote by Ballot—free and peaceful township elections.

The people to elect their Court of Request Commissioners and Justices of the Peace—and also their Militia Officers, in all cases whatsoever.

Freedom of Trade—every man to be allowed to buy at the cheapest market, and sell at the dearest.

No man to be compelled to give military service, unless it be his choice.

Ample funds to be reserved from the vast natural resources of our country to secure the blessings of education to every citizen.

A frugal and economical Government, in order that the people may be prosperous and free from difficulty.

An end forever to the wearisome prayers, supplications, and mockeries attendant upon our connection with the lordlings of the Colonial Office, Downing Street, London.

The opening of the St. Lawrence to the trade of the world, so that the largest ships might pass up to Lake Superior, and the distribution of the wild lands of the country to the industry, capital, skill, and enterprise of worthy men of all nations.

For the attainment of these important objects, the patriots now in arms under the Standard of Liberty, on NAVY ISLAND, U. C., have established a Provisional Government of which the members are as follows, (with two other distinguished gentlemen, whose names there are powerful reasons for withholding from public view,) viz :

WILLIAM L. MACKENZIE, *Chairman, pro. tem.*

Nelson Gorham,
Samuel Lount,
Silas Fletcher,
Jesse Lloyd,
Thomas Darling,*
Adam Graham,

John Hawk,
Jacob Rymall,
William H. Doyle,
A. G. W. G. Van Egmond,
Charles Duncombe.

We have procured the important aid of General Van Rensselaer of Albany, of Colonel Sutherland, Colonel Van Egmond, and other military men of experience; and the citizens of Buffalo, to their eternal honor be it ever remembered, have proved to us the enduring principles of the Revolution of 1776, by supplying us with provisions, money, arms, ammunition, artillery, and volunteers; and vast numbers are floating to the standard under which, heaven willing, emancipation will be speedily won for a new and gallant nation, hitherto held in Egyptian thralldom by the aristocracy of England.

* Mr. Darling refused to accept his appointment, and complained that his name had been published in the Proclamation.

BRAVE CANADIANS! Hasten to join that standard, and to make common cause with your fellow citizens now in arms in the Home, London, and Western Districts. The opportunity of the absence of the hired red coats of Europe is favorable to our emancipation. And short sighted is that man who does not now see that, although his apathy may protract the contest, it must end in *Independence*—freedom from European thralldom for ever!

Until Independence is won, trade and industry will be dormant, houses and lands will be unsaleable, merchants will be embarrassed, and farmers and mechanics harassed and troubled; that point once gained, the prospect is fair and cheering, a long day of prosperity may be ours.

The reverses in the Home District were owing, First, to accident, which revealed our design to our tyrants, and prevented a surprise; and Second, to the want of artillery. Three thousand five hundred men came and went, but we had no arms for one in twelve of them, nor could we procure them in the country.

Three hundred acres of the best of the public lands will be freely bestowed upon any volunteer, who shall assist personally in bringing to a conclusion the glorious struggle in which our youthful country is now engaged against the enemies of freedom all the world over.

Ten millions of these lands, fair and fertile, will, I trust, be speedily at our disposal, with the other vast resources of a country more extensive and rich in natural treasures than the United Kingdom or Old France.

Citizens! Soldiers of Liberty! Friends of Equal Rights! Let no man suffer in his property, person, or estate—let us pass through Canada, not to retaliate on others for our estates ravaged, our friends in dungeons, our homes burnt, our wheat and barns burnt, and our horses and cattle carried off; but let us show the praiseworthy example of protecting the houses, the homes, and the families of those who are in arms against their country and against the liberties of this continent. We will dis-

claim and severely punish all aggressions upon private property, and consider those as our enemies who may burn or destroy the smallest hut in Canada, unless necessity compel any one to do so in any cause for self-defence.

Whereas, at a time when the King and Parliament of Great Britain had solemnly agreed to redress the grievances of the people, Sir Francis Bond Head was sent out to this country with promises of conciliation and justice—and *whereas*, the said Head hath violated his oath of office as a Governor, trampled upon every vestige of our rights and privileges, bribed and corrupted the local Legislature, interfered with the freedom of elections, intimidated the freeholders, declared our country not entitled to the blessings of British freedom, prostrated openly the right of trial by jury, placed in office the most obsequious, treacherous, and unworthy of our population—and sought to rule Upper Canada by the mere force of his arbitrary power; imprisoned Dr. Morrison, Mr. Parker, and many others of our most respected citizens; banishing in the most cruel manner the highly respected Speaker of our late House of Assembly, the Honorable Mr. Bidwell, and causing the expatriation of that universally beloved and well tried eminent patriot, Dr. John Rolph, because they had made common cause with our injured people, and setting a vast price on the heads of several, as if they were guilty persons—for which crimes and misdemeanors he is deserving of being put upon his trial before the country—I do therefore hereby offer a reward of £500 for his apprehension, so that he may be dealt with as may appertain to justice.

In Lower Canada, divine providence has blessed the arms of the Sons of Liberty—a whole people are there manfully struggling for that freedom without which property is but a phantom, and life scarce worth having a gift of. General Girard is at the head of fifteen thousand determined democrats.

The friends of freedom in Upper Canada have continued to act in strong and regular concert with Mr. Papineau and the Lower Canada Patriots—and it is a pleasing reflection that be-

tween us and the ocean a population of six hundred thousand souls are now in arms, resolved to be free.

The tidings that worthy patriots are in arms is spreading through the Union, and the men who were oppressed in England, Ireland, Scotland, and the continent, are flocking to our standard.

We must be successful!

I had the honor to address nearly three thousand of the citizens of Buffalo, two days ago, in the theatre. The friendship and sympathy they expressed is honorable to the great and flourishing Republic.

I am personally authorized to make known to you that from the moment that Sir Francis Bond Head declined to state in writing the objects he had in view, in sending a flag of truce to our camp in Toronto, the message once declined, our esteemed fellow citizen, Dr. John Rolph, openly announced his concurrence in our measures, and now decidedly approves of the stand we are taking in behalf of our beloved country, which will never more be his until it be free and independent.

CANADIANS! My confidence in you is as strong and powerful, in this our day of trial and difficulty, as when, many years ago, in the zeal and ardor of youth, I appeared among you, the humble advocate of your rights and liberties. I need not remind you of the sufferings and persecutions I have endured for your sakes—the losses I have sustained—the risks I have run. Had I ten lives I would cheerfully give them up to procure freedom to the country of my children, of my early and disinterested choice. Let us act together; and warmed by the hope of success in a patriotic course, be able to repeat in the language so often happily quoted by Ireland's champion,

The nations are fallen and thou still art young,
Thy sun is but rising when others have set;
And though Slavery's cloud o'er thy morning hath hung,
The full tide of Freedom shall beam round thee yet.

Militia men of 1812! Will ye again rally round the standard of our tyrants! I can scarce believe it possible. Upper Canada

Loyalists, what has been the recompense of your long tried and devoted attachment to England's Aristocracy? Obloquy and contempt.

Verily we have learnt in the school of experience, and are prepared to profit by the lessons of the past. Compare the great and flourishing nation of the United States with our divided and distracted land, and think what we also might have been, as brave, independent lords of the soil. Leave then Sir Francis Bond Head's defence to the miserable serfs dependent on his bounty, and to the last hour of your lives the proud remembrance will be yours—"We also were among the deliverers of our country."

Navy Island, December 13, 1837.

APPENDIX H.

THE following is Mr. John Montgomery's account of the escape of himself and several other political prisoners from Fort Henry, Kingston, C. W., to Watertown, State of New York:

"We were taken from town to Fort Henry in the Sir Robert Peel, in charge of Sheriff Jarvis and a guard of negroes. Seven of us were allowed to occupy the cabin, the rest were placed on deck under guard. Several of us proposed to seize the vessel, and Anderson and myself, being chained together, were deputed to go on deck and watch the signal when we were to seize the man at the helm. We watched until in sight of the harbor, when, no signal being given, we went below, and found that the idea had been abandoned. On landing, we were immediately sent to Fort Henry, where our irons were knocked off. Next morning Dr. Shellen, Mr. Hodge, and the American prisoners, were marched off to Quebec. Having managed to secrete my money, to the amount of \$75 in bills, and my watch, in my boots, we were enabled to make up a purse of \$30 for those about to leave us, as otherwise they would have been destitute.

“We had been but a small time in the fort, when, through information given by a person kindly affected towards me, we learned that there was a possibility of our being enabled to effect our escape. This information we did not at first pay much attention to; but after Lord Durham had, on his arrival from Quebec, twice visited the fort, each time refusing our prayer for an interview, and when we had been told that any complaint should be in the form of a petition, we sent one down to Quebec and received for answer a simple acknowledgment of its receipt, by Lord Durham, accompanied with an assurance that it would be forwarded to Sir George Arthur, in whom Lord Durham had the greatest confidence. We felt that it was useless to look for mercy, and that we might at least make a venture. Accordingly we organized a committee to investigate into the correctness of the information received, and, hearing the former account substantiated, we began to make our arrangements.

“We had learned that a portion of the wall in our room, although four and a half feet thick, had been completed only a short time, and the mortar was not yet dry. Behind this wall was an oak door, leading to a subterranean passage which opened into a gun room; and as the shutters which covered the port holes hung on chains, we could easily let ourselves down by means of ropes made of our sheets into the sally port of a depth of ten feet; and by the same means were enabled to get on level ground. Our sole implements of labor consisted of a piece of iron ten inches in length, and a disk nail. Having obtained half a cord of wood, we piled it up in the middle of the floor, as if for the purpose of airing our bed clothes, but in reality to hide the stone and mortar which we took from the hole. The jailer, mistrusting, caused the wood all to be pulled down; but finding nothing he allowed us to rearrange it. We had prayers daily by Mr. Parker previous to our airing in the yard of the fort. We, at length, went boldly to work; the unusual noise at first attracted the attention of the sentry, who came up to the window where I was reading the Bible, and asked the cause of it. I answered by

pointing to two men who, apparently for their amusement, but in reality to deaden the strokes on the wall, were, with shovel and tongs, beating the stove with all their might, and eliciting thereby roars of laughter from their companions; while I earnestly requested them to stop such trifling, and think of their apparently serious position. We were not again interrupted. We commenced on Tuesday and it was Sunday ere we had made a hole sufficiently large to enable us to get through. As the keeper had been married the Thursday before, we begged him to take his wife to church, and allow us to refrain from our usual airing. This he was very glad to do. We then requested fourteen or fifteen pounds of biscuit, as we did not like the meat, and they kept better than bread; he sent four and a half pounds, all they had at the canteen. We had hung up blankets, by permission of the keeper, to keep out the musquitoes, and were thus enabled to complete our preparations without interruption.

“When the guard beat the evening tattoo and descended from the ramparts, we commenced our escape. We reached the sally port in safety; but here I had the misfortune to fall into the pit and break my leg. One of my companions descended and took my hand, and we were pulled up by the rest. We had decided to be called by numbers, and when we had succeeded in scaling the wall, which we did during a fearful storm, we found No. 10, J. G. Parker, missing. Thinking he had fallen into the pit, Brophy and Morden volunteered to put over the scaling ladder and search the sally port, which they did, but in vain. In fact, Parker had deserted us; and we afterwards learned that he had been retaken on Monday, and sent to England. This was a serious defection. Parker was the only man amongst us who knew anything of Kingston, and to his knowledge we had trusted for guidance after leaving the fort. It was a fearful night of storm and lightning, but we decided to take down towards the river, and when daylight came to take to the woods. We had resolved to divide into parties for greater safety. We therefore divided our biscuits equally among fourteen men, Brophy, Mor-

den, Chase, and myself decided to make for Cape Vincent, agreeing to meet the others at Watertown, should we not be retaken.

“We traveled a considerable distance on Monday, and in the evening tried to get a boat. My leg having become greatly inflamed, and as I found it impossible to proceed, it was decided that we should rest in the woods and try, by application of cold water, to reduce the inflammation. This was done; we remained for some time; at length, having got a boat, I was helped down to it, and about midnight we started in the direction of Kingston, and then crossed to Long Island, in order to escape a government vessel sent in search of us.

“We landed on Long Island, and pulled our boat up into the woods, but finding ourselves near people known to be unfriendly, we decided to cross the island and ascertain our chances of escape from the other side. We were obliged to carry our boat; which was very difficult to do with my broken leg, but I carried paddles and other articles. With great pain, and in a state of exhaustion, we at length succeeded in launching our boat and proceeded to what we felt sure was the mainland. On arriving here we knelt down and thanked God for our safety, and earnestly prayed for that of our companions.

“We soon found, however, that we were again on an island. Re-entering our boat almost famished, our slender provisions, two biscuits a day since leaving the fort, exhausted, we started for Vincent, but were obliged to put ashore, being unable to manage the boat. We pulled her up and went to a house near the shore, and there learned that we were on American ground. We asked a woman whom we saw there to get us a carriage to take us to Cape Vincent; but she refused, and sent to the field for her husband, who consented for \$1.50 to take us in the boat. We asked him if he had heard of the escape from the fort; he said ‘Yes, that day at noon,’ adding, ‘I wish I knew where the poor fellows are, I would tell Bill Johnson and have them safe off before I sleep.’ When we told who we were, he earnestly re-

quested us to take the money back ; and on landing threw up his hat and gave three cheers for the Patriots.

" A crowd was soon collected, and I was relieved from the necessity of walking. Great sympathy and attention were shown us. A public dinner, largely attended, was given in our honor. On our arrival at Watertown, we were met by Anderson and his party, and at length all joined us, save Watson and Parker, who were retaken and put in heavy irons.

" Being demanded by the British authorities, we were secreted until the opinion of the Governor of New York could be known. He decided that we should not be given up. While still suffering severely from the pain of my leg, I, a short time after arriving in Rochester, was knocked down by a large team and my skull fractured. I was for weeks unconscious, and it was a long time ere I recovered my usual health."

APPENDIX I.

THE following are the names and persons arrested in Upper Canada, and placed in confinement in the prisons of Toronto, and other places in the Province, on a charge of insurrection or treason ; the dates of their arrest and discharge ; and, if tried, whether by court-martial or civil courts, with the result of such trials severally, from the 5th December, 1837, to the 1st November, 1838. At that time twenty-seven were still in custody.

EASTERN, OTTAWA, AND BATHURST DISTRICTS.—No prisoners confined in the above districts on a charge of insurrection or treason.

JOHNSTOWN DISTRICT:

Thos. Wilson, Methodist preacher, Dec. 13, 1837, Dec. 15, 1837, n. t., dis. by m.*

* EXPLANATIONS AND ABBREVIATIONS.—The first of the two data given indicates, in each case, the time of arrest ; the second the time of discharge. Abbreviations—Dis. by m., for discharged by magistrates ; n. e., no evidence ; n. t., for not tried ; lib. on b. by Q. C., for liberated on bail by Queen's Counsel ; ad. to b. by A. G., admitted to bail by Attorney General ; Lieut. Gov., for Lieutenant Governor ; dis. by com. after ex., discharged by commission after examination ; p. on s., pardoned on giving security to keep the peace ; ban., banished from the Province ; pet., for petitioned under 1 Vic. c. 10 ; dis. on s. for g. b., discharged on security for good behavior.

Wm. H. Sherman, shoemaker, Dec. 18, 1837, Feb. 16, 1838, n. t., dis. by m.
 Wellesley Pike, yeoman, Dec. 18, 1837, Dec. 18, 1837, n. t., dis. by m., n. e.
 Charles Swift, saddler, Dec. 27, 1837, Jan. 23, 1838, n. t., dis. by magistrate.
 George R. Brian, baker, Jan. 2, 1838, Jan. 2, 1838, n. t., discharged by mag.
 John Thomas, yeoman, Feb. 6, 1838, Feb. 10, 1838, n. t., dis. by mag., n. e.
 James Malone, tailor, July 25, 1838, July 26, 1838, n. t., dis. by m., no ev.
 William Parrot, laborer, Aug. 3, 1838, Aug. 3, 1838, n. t., dis. by mag., n. e.

PRINCE EDWARD DISTRICT.—No prisoner confined in this district on a charge of insurrection or treason.

MIDLAND DISTRICT:

George R. Huffman, tanner, Dec. 12, 1837, Jan. 4, 1838, n. t., lib. on b. by Q. C.
 Francis M. Weafer, teacher, Dec. 12, 1837, Jan. 10, 1838, n. t., lib. on b. by Q. C.
 Augustus Thibodo, yeoman, Dec. 12, 1837, Dec. 13, 1837, n. t., dis. by mag.
 John Burley, gentleman, Dec. 12, 1837, Dec. 13, 1837, n. t., dis. by magistrate.
 William Cunningham, artist, Dec. 14, 1837, Dec. 16, 1837, n. t., dis. by mag.
 Reuben White, yeoman, Dec. 17, 1837, Jan. 2, 1838, n. t., ad. to bail by At. G.
 Joseph Canniff, miller, Dec. 17, 1837, Jan. 2, 1838, n. t., ad. to bail by A. G.
 Joseph Lockwood, yeoman, Dec. 17, 1837, Jan. 2, 1838, n. t., ad. to b. by A. G.
 Norr. H. Herns, yeoman, Dec. 17, 1837, Jan. 2, 1838, n. t., ad. to b. by A. G.
 Joseph P. Cavalar, yeoman, Dec. 17, 1837, Jan. 2, 1838, n. t., ad. to b. by A. G.
 Gideon Turner, township clerk, Dec. 17, 1837, Jan. 2, 1838, n. t., ad. to b. by A. G.
 Peter Davidson, yeoman, Dec. 17, 1837, Jan. 2, 1838, n. t., ad. to b. by A. G.
 C. H. McCollum, merchant, Dec. 17, 1837, Dec. 20, 1837, n. t., lib. by L. Gov.
 Thomas Anderson, yeoman, Dec. 19, 1837, May 2, 1838, n. t. ind. but bill ig.
 Oliver Robinson, yeoman, Dec. 19, 1837, May 20, 1838, n. t., ind. but bill ig.
 Richard Tucker, yeoman, Dec. 19, 1837, May 20, 1838, n. t., ind. but bill ig.
 Anson M. Day, yeoman, Dec. 19, 1837, July 7, 1838, oyer and ter., acquitted.
 Anson Hayden, doctor, Dec. 19, 1837, Jan. 2, 1838, n. t., ad. to bail by A. G.
 Cornelius Parks, innkeeper, Dec. 19, 1837, Jan. 2, 1838, n. t., ad. to b. by A. G.
 John Jacobs, shoemaker, Dec. 20, 1837, Jan. 29, 1838, n. t., ad. to b. by A. G.
 James O. Hare, yeoman, Dec. 22, 1837, Jan. 5, 1838, n. t., ad. to b. by A. G.
 James McCann, teacher, Dec. 22, 1837, Jan. 12, 1838, n. t., ad. to b. by A. G.
 Hiram Banazar, yeoman, Dec. 20, 1837, Jan. 5, 1838, n. t., ad. to b. by A. G.
 Nel. C. Reynolds, merchant, Dec. 26, 1837, July 6, 1838, oy. and ter., acquitted.
 John Belby, butcher, Dec. 26, 1837, Jan. 2, 1838, n. t., dis. upon sec. for g. b.
 John B. Wheeler, yeoman, Dec. 31, 1837, Jan. 12, 1838, n. t., dis. upon s. for g. b.
 Charles N. Phillips, shoemaker, Jan. 1, 1838, Feb. 9, 1838, n. t., dis. up. s. g. b.
 Thomas Mullins, yeoman, Jan. 2, 1838, Jan. 5, 1838, n. t., dis. upon s. for g. b.
 Sam'l. Parkeymore, yeoman, Jan. 5, 1838, Jan. 9, 1838, n. t., dis. upon s. for g. b.
 Christ. Lafontaine, yeoman, Feb. 22, 1838, July 8, 1838, oy. and ter., acquitted.
 Samuel Marsh, yeoman, Feb. 22, 1838, July 8, 1838, oyer and ter., acquitted.
 Asa Lewis, yeoman, Feb. 22, 1838, July 8, 1838, oyer and terminer acouitted.

Peter Orr, yeoman, Feb. 22, 1838, July 8, 1838, oyer and terminer, acquitted.
 Charles Marsh, yeoman, Feb. 22, 1838, July 8, 1838, oyer and ter., acquitted.
 Wm. A. Forward, attorney, Feb. 22, 1838, March 13, 1838, n. t., ad. to b. by Q. C.
 Hiram Mott, yeoman, Feb. 23, 1838, May 11, 1838, n. t., ind., but b. ignored.
 Stephen Mott, yeoman, Feb. 23, 1838, May 11, 1838, n. t., indicted, but bill ig.
 Wm. Anderson, yeoman, Feb. 28, 1838, March 29, 1838, n. t., ind., but b. ig.
 Abram Collard, yeoman, Feb. 28, 1838, April 22, 1838, n. t., admitted to bail.
 Samuel Babcock, yeoman, Feb. 28, 1838, March 26, 1838, n. t., ad. to bail.
 Robert Bird, miller, Feb. 27, 1838, March 8, 1838, n. t., dis. by m. on giv. b.
 Peter Robertson, merchant, Feb. 27, 1838, May 16, 1838, n. t., bill ig. by g. j.
 Joshua Smith, merchant, Feb. 27, 1838, May 9, 1838, n. t., bill ig. by g. jury.
 Robert Robertson, merchant, Feb. 27, 1838, May 16, 1838, n. t., bill ig. by g. j.
 Amos Proctor, yeoman, Feb. 27, 1838, May 16, 1838, n. t., bill ig. by grand j.
 Blecker W. Myers, yeoman, Feb. 27, 1838, May 16, 1838, n. t., bill ig. by g. j.
 Peter Lott, yeoman, Feb. 27, 1838, May 16, 1838, n. t., bill ig. by g. jury.
 John W. Stickles, yeoman, Feb. 27, 1838, May 16, 1838, n. t., bill ig. by g. j.
 Nicholas O. Cave, yeoman, Feb. 27, 1838, May 16, 1838, n. t., bill ig. by g. j.
 James Getty, yeoman, Feb. 27, 1838, May 16, 1838, n. t., bill ig. by g. jury.
 Ivy R. Roblin, yeoman, Feb. 27, 1838, May 16, 1838, n. t., bill ig. by g. jury.
 Samuel Stephen, yeoman, Feb. 27, 1838, March 23, 1838, n. t., ad. to bail.
 Elijah Ockerman, yeoman, Feb. 27, 1838, May 18, 1838, n. t., bill ig. by g. j.
 Edward Hickey, yeoman, Feb. 27, 1838, May 18, 1838, n. t., bill ig. by g. jury.
 Tobias Myers, yeoman, Feb. 27, 1838, July 8, 1838, n. t., a true bill found, but
 counsel declined prosecuting, as others charged with same crime had been acq.
 John C. Pennock, cooper, Feb. 27, 1838, May 14, 1838, n. t., bill ig. by g. j.
 John Pockard, yeoman, Feb. 29, 1838, Aug. 16, 1838, n. t., lib. by Lieut. G.
 George Holsenburgh, yeoman, Feb. 29, 1838, Aug. 16, 1838, n. t., lib. by L. G.
 John Martin, yeoman, Feb. 29, 1838, Aug. 16, 1838, n. t., lib. by Lieut. Gov.
 Ebenezer B. Stores, yeoman, Feb. 29, 1838, Aug. 16, 1838, n. t., lib. by L. G.
 John Herman, yeoman, Feb. 29, 1838, Aug. 16, 1838, n. t., lib. by Lieut. G.
 Daniel Davidson, yeoman, March 2, 1838, May 12, 1838, n. t., bill ig. by g. j.
 Nelson Long, carpenter, March 2, 1838, May 12, 1838, n. t., bill ig. by g. j.
 Jacob Lott, yeoman, March 2, 1838, May 16, 1838, n. t., bill ig. by g. jury.
 William Leslie, merchant, March 2, 1838, May 14, 1838, n. t., dis. by mag.
 James L. Chatsey, yeoman, March 3, 1838, March 7, 1838, n. t., dis. by mag.
 Absalom Day, yeoman, March 3, 1838, April 22, 1838, n. t., charged with aid-
 ing the escape of a traitor. Case not proceeded with, the principal being acq.
 Christopher Greniser, yeoman, March 3, 1838, April 2, 1838, n. t., ditto ditto.
 Harvey Stratton, yeoman, March 3, 1838, April 18, 1838, n. t., ad. to bail.
 James Ketchipaw, yeoman, March 3, 1838, March 7, 1838, n. t., ad. to bail.
 Vanrauslaer Robins, laborer, March 12, 1838, March 13, 1838, n. t., dis. by m.
 Philo Smith, laborer, March 14, 1838, May 15, 1838, n. t., bill ig. by g. jury.
 Samuel Star, shoemaker, March 14, 1838, May 11, 1838, n. t., bill ig. by g. jury

Benjamin Proctor, tinsmith, April 24, 1838, May 12, 1838, n. t., bill ig. by g. j.
 Pierre Lassage, carter, May 9, 1838, July 7, 1838, n. t., true bill found. Case
 not proceeded with, the witnesses having absconded.

NEWCASTLE DISTRICT:

William Purdy, miller, Dec. 13, 1837, Jan. 3, 1838, n. t., dis. by magistrates.
 William Richardson, farmer, Dec. 16, 1837, Jan. 3, 1838, n. t., dis. by mag.
 Joseph Pearson, farmer, Dec. 16, 1837, Jan. 3, 1838, n. t., dis. by magistrates.
 Jacob Kellar, laborer, Dec. 31, 1837, Feb. 17, 1838, n. t., dis. by magistrates.
 John Davis, laborer, Jan. 27, 1838, Feb. 22, 1838, n. t., dis. by magistrates.
 S. V. Wicklin, blacksmith, Feb. 6, 1838, March 19, 1838, n. t., dis. by mag.
 Francis Ferguson, laborer, Feb. 24, 1838, March 10, 1838, n. t., dis. by mag.
 Peter Nix, farmer, Jan. 11, 1838, April 16, 1838, n. t., dis. at the assizes.
 Charles Powers, iron founder, Dec., 1817, n. t., arrested on suspicion of seditious practices, but discharged by the magistrates, without imprisonment.
 John Gilchrist, physician, Dec., 1837, n. t. ditto. ditto. ditto.
 Munro Merriman, laborer, Dec., 1837, n. t. ditto. ditto. ditto.
 Robert Waller, merchant, Dec., 1837, n. t. ditto. ditto. ditto.

HOME DISTRICT:

James Foster, laborer, Dec. 4, 1837, Dec. 23, 1837, n. t., dis. by com. after ex.
 Jay Cody, farmer, Dec. 4, 1837, Oct., 1838, pet. under 1 Vict. c. 10, pardoned,
 on giving security to keep the peace, and be of good behavior for three years.
 Daniel Winstow, laborer, Dec. 6, 1837, Dec. 11, 1837, n. t., dis. by com. after ex.
 Louis Brine, laborer, Dec. 6, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
 James Raggat, laborer, Dec. 6, 1837, Dec. 11, 1837, n. t., dis. by com. after ex.
 Patrick Casey, laborer, Dec. 7, 1837, Dec. 11, 1837, n. t., dis. by com. after ex.
 H. Carlton, laborer, Dec. 7, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
 Arthur Laidlaw, laborer, Dec. 7, 1837, Dec. 9, 1837, n. t., dis. by com. after ex.
 J. McGilles, laborer, Dec. 6, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
 W. Young, laborer, Dec. 7, 1838, Dec. 9, 1837, n. t., dis. by com. after ex.
 John Anderson, innkeeper, Dec. 11, 1857, special oy. and ter., guilty, sentenced
 to death; commuted to transportation. Escaped from Fort Henry, Kingston.
 Ira Anderson, innkeeper, Dec. 11, 1837. ditto. ditto. ditto.
 James Smith, laborer, Dec. 6, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
 Peter Deguire, laborer, Dec. 7, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
 Cornelius Duncan, laborer, Dec. 7, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 Wm. Kendrick, laborer, Dec. 7, 1837, Dec. 21, 1837, n. t., dis. by com. after. ex.
 George Ireland, laborer, Dec. 7, 1837, Dec. 19, 1837, n. t., dis. by com. after ex.
 Joseph Horne, laborer, Dec. 7, 1837, Dec. 17, 1837, n. t., dis. by com. after ex.
 Maurice Fitzgerald, laborer, Dec. 7, 1837, Dec. 9, 1837, n. t., dis. by com. af. ex.
 George Carrol, laborer, Dec. 6, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
 Samuel Carpenter, laborer, Dec. 7, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.

Thomas Burrill, laborer, Dec. 5, 1837, December 8, 1837, n. t., dis. com. af. ex.
 Thomas Rerdon, tinsmith, Dec. 5, 1837, Dec. 9, 1837, n. t., dis. by com. af. ex.
 John Kennedy, laborer, Dec. 7, 1837, Dec. 9, 1837, n. t., dis. by com. after ex.
 John Kennedy (2), carpenter, Dec. 8, 1837, Dec. 9, 1837, n. t., dis. by com. af. ex.
 Pat. McChrystal, laborer, Dec. 8, 1837, Dec. 11, 1837, n. t., dis. by com. af. ex.
 W. T. Kennedy, clerk, Dec. 6, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
 W. Milney, yeoman, Dec. 4, 1837, Dec. 19, 1837, n. t., dis. by com. after ex.
 F. Wardrope, yeoman, Dec. 4, 1837, Dec. 9, 1837, n. t., dis. by com. after ex.
 George Farley, yeoman, Dec. 4, 1837, Dec. 9, 1837, n. t., dis. by com. after ex.
 Henry Hall, yeoman, Dec. 4, 1837, Dec. 13, 1837, n. t., dis. by com. after ex.
 John Dunn, laborer, Dec. 7, 1837, Dec. 19, 1837, n. t., dis. by com. after ex.
 William Pearson, yeoman, Dec. 7, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 Andrew Dragoon, laborer, Dec. 7, 1837, Dec. 21, 1837, n. t. dis. by com. af. ex.
 Fred. Anderson, laborer, Dec. 7, 1837, Dec. 19, 1837, n. t., dis. by com. after ex.
 James Bergin, laborer, Dec. 7, 1837, Dec. 15, 1837, n. t., dis. by com. after ex.
 Henry Cowen, blacksmith, Dec. 7, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 Cristin Ninny, laborer, Dec. 7, 1837, Dec. 23, 1837, n. t., dis. by com. after ex.
 Wm. Alderney, laborer, Dec. 7, 1837, Dec. 9, 1837, n. t., dis. by com. after ex.
 Francis Lyons, laborer, Dec. 7, 1837, Dec. 9, 1837, n. t., dis. by com. after ex.
 Daniel Gamble, laborer, Dec. 8, 1837, Dec. 23, 1837, n. t., dis. by com. after ex.
 Wm. Robertson, laborer, Dec. 8, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 Robert Stibbert, laborer, Dec. 8, 1837, April 10, 1838, special oy. and ter., acq
 James Johnson, laborer, Dec. 9, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 Gordon Burgess, laborer, Dec. 9, 1837, Dec. 17, 1837, n. t., dis. by com. af. ex.
 John Burgess, laborer Dec. 9, 1837, Dec. 17, 1837, n. t., dis. by com. after ex.
 John Pearson, laborer, Dec. 9, 1837, Dec. 11, 1837, n. t., dis. by com. after ex.
 Jas. Hutchinson, laborer, Dec. 9, 1837, Dec. 26, 1837, n. t., dis. by com. after ex.
 Richard Taylor, laborer, Dec. 9, 1837, Dec. 26, 1837, n. t., dis. by com. after ex.
 Robert Baillie, laborer, Dec. 9, 1837, Dec. 23, 1837, n. t., dis. by com. after ex.
 Seymour H. W. Stogdill, laborer, Dec. 9, 1837, Oct., 1838, pet. under 1 Vict.
 c. 10, pardoned, on giv. security to keep the peace and be of g. b. for 3 years.
 Col. Van Egmond, yeoman, Dec. 7, 1837, Dec. 30, 1837, n. t., died in hospital.
 James Hunter, physician, Dec. 10, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 Wm. Watson, laborer, Dec. 10, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 Leonard Watson, laborer, Dec. 10, 1837, petitioned under 1 Vict. c. 10, trans-
 portation to Van Diemen's Land for life.
 Eli Bateman, laborer, Dec. 10, 1837, Dec. 19, 1837, n. t., dis. by com. after ex.
 Joseph Sheppard, yeoman, Dec. 11, 1837, May 12, 1838, pet. under 1 Vic. c. 10,
 pardoned, on giving security to keep the peace, and be of good b. for 3 years.
 Jacob Sheppard, yeoman, Dec. 11, 1837, May 12, 1838, ditto. ditto. ditto.
 John Brown, yeoman, Dec. 10, 1837, Dec. 11, 1837, n. t., dis. by com. after ex.
 James Latimer, printer, Dec. 11, 1837, Dec. 14, 1837, n. t., dis. by com. af. ex.
 Wm. Alves, laborer, Dec. 11, 1837, pet. under 1 Vict. c. 10, trans. for 14 years.

- Edward Hilton, laborer, Dec. 11, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.
- George Nelson, laborer, Dec. 11, 1837, Dec. 14, 1837, n. t., dis. by com. af. ex.
- John Montgomery, innkeeper, Dec. 11, 1837, spe. oy. and ter., guilty, sentenced to death; commuted to transportation. Escaped from Fort Henry, Kingston.
- Henry Brock, laborer, Dec. 11, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
- Edward Brock, laborer, Dec. 11, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
- Robert Brock, laborer, Dec. 11, 1837, July 13, 1838, pet. under 1 Vict. c. 10, pardoned, on giving security to keep the peace, and be of good b. for 3 years.
- Michael Vincent, laborer, Dec. 11, 1837, Dec. 19, 1837, n. t., dis. by com. af. ex.
- John Whiting, laborer, Dec. 11, 1837, Dec. 20, 1837, n. t., dis. by com. af. ex.
- Will am Clay, laborer, Dec. 11, 1837, Dec. 30, 1837, n. t., dis. by com. af. ex.
- James Egar, laborer, Dec. 11, 1837, Dec. 17, 1837, n. t., dis. by com. after ex.
- Robt. Middleton, laborer, Dec. 11, 1837, Dec. 26, 1837, n. t., dis. by com. af. ex.
- Wm. Ballard, laborer, Dec. 11, 1837, Dec. 27, 1837, n. t., dis. by com. af. ex.
- Samuel Read, laborer, Dec. 11, 1837, Dec. 17, 1837, n. t., dis. by com. af. ex.
- John Russel, laborer, Dec. 11, 1837, Dec. 17, 1837, n. t., dis. by com. after ex.
- Wm. M. Plasted, laborer, Dec. 11, 1837, Dec. 13, 1837, n. t., dis. by com. af. ex.
- Godlip Eickart, yeoman, Dec. 11, 1837, May 12, 1837, pet. under 1 Vict. c. 10, pardoned, on giving security to keep the peace, and be of good b. for 3 years.
- Gregory Innis, laborer, Dec. 11, 1837, Dec. 26, 1837, n. t., dis. by com. af. ex.
- George Eickart, laborer, Dec. 11, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
- George Chewett, laborer, Dec. 11, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.
- John Steeple, laborer, Dec. 11, 1837, Dec. 26, 1837, n. t., dis. by com. after ex.
- Wm. Jackson, laborer, Dec. 11, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
- Andrew Eickart, laborer, Dec. 11, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
- David Cash, laborer, Dec. 11, 1837, Dec. 20, 1837, n. t., dis. by com. after ex.
- Robert Stiver, laborer, Dec. 11, 1838, Dec. 14, 1837, n. t., dis. by com. af. ex.
- Daniel Hibner, laborer, Dec. 11, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
- Daniel Sheppard, laborer, Dec. 11, 1837, Dec. 31, 1837, n. t., dis. by com. af. ex.
- Fred. Eickart, laborer, Dec. 11, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
- William Pool, laborer, Dec. 11, 1837, July 13, 1838, pet. under 1 Vict. c. 10, pardoned, on giving security to keep the peace, and be of good b. for 3 years.
- John Brett, laborer, Dec. 11, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
- Francis Way, laborer, Dec. 11, 1837, Dec. 19, 1837, n. t., dis. by com. after ex.
- Peter Storey, laborer, Dec. 11, 1837, Dec. 19, 1837, n. t., dis. by com. after ex.
- John McMillan, laborer, Dec. 11, 1837, Dec. 26, 1837, n. t., dis. by com. af. ex.
- Henry Earl, laborer, Dec. 11, 1837, Dec. 26, 1837, n. t., dis. by com. after ex.
- Edward Snider, laborer, Dec. 11, 1837, Dec. 15, 1837, n. t., dis. by com. af. ex.
- Henry Shaver, laborer, Dec. 11, 1837, Dec. 15, 1837, n. t., dis. by com. af. ex.
- Eman. Tomlinson, laborer, Dec. 11, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.
- Wm. Rogers, laborer, Dec. 11, 1837, Dec. 23, 1837, n. t., dis. by com. after ex.
- Samuel Brock, laborer, Dec. 11, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.
- Philip Bussom, laborer, Dec. 12, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.

George Garbut, laborer, Dec. 12, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 John Brammer, laborer, Dec. 12, 1837, May 12, 1838, pet. under 1 Vict. c. 10,
 pardoned, on giving security to keep the peace, and be of good b. for 3 years.
 Philo Belfry, yeoman, Dec. 12, 1837, May 11, 1838, ditto ditto ditto.
 Alex. Read, yeoman, Dec. 12, 1837, Jan. 11, 1838, ditto ditto ditto.
 Wm. Nelson, yeoman, Dec. 12, 1837, July 13, 1838, ditto ditto ditto.
 John Cuyler, laborer, Dec. 12, 1837, March 23, 1838, n. t., escaped from hospital.
 Joshua Stevens, laborer, Dec. 12, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.
 W. R. Lount, laborer, Dec. 12, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
 Philip Wideman, yeoman, Dec. 12, 1837, May 10, 1838, pet. under 1 Vict. c. 10,
 pardoned on giving security to keep the peace, and be of good b. for 3 years.
 Charles Burling, yeoman, Dec. 12, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.
 Richard Watson, yeoman, Dec. 13, 1837, May 12, 1838, pet. under 1 Vict. c. 10,
 pardoned, on giving security to keep the peace, and be of good b. for 3 years.
 Peter Rogers, yeoman, Dec. 13, 1837, July 13, 1838, ditto ditto ditto.
 William King, yeoman, Dec. 13, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.
 Wm. Rogers, yeoman, Dec. 13, 1837, April 18, 1838, spe. oy. and ter., acquitted.
 J. W. Kendrick, laborer, Dec. 13, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.
 George Hill, laborer, Dec. 13, 1837, Dec. 16, 1837, n. t., dis. by com. af. ex.
 Joseph Gould, yeoman, Dec. 13, 1837, Oct., 1838, pet. under 1 Vict. c. par
 doned, on giving security to keep the peace, and be of good b. for 3 years.
 Abraham Haling, laborer, Dec. 13, 1837, pet. under 1 Vict. c. 10, ban. from Pro
 Joseph Newlove, laborer, Dec. 13, 1837, Dec. 15, 1837, n. t., dis. by com. af. ex.
 George Wilson, laborer, Dec. 13, 1837, Dec. 15, 1837, n. t., dis. by com. af. ex.
 William Asher, laborer, Dec. 13, 1837, Dec. 15, 1837, n. t., dis. by com. af. ex.
 John Beilby, laborer, Dec. 13, 1837, Dec. 15, 1837, n. t., dis. by com. after ex.
 Joseph Wilson, laborer, Dec. 13, 1837, Dec. 15, 1837, n. t., dis. by com. af. ex.
 Periphen Hawke, laborer, Dec. 13, 1837, May 12, 1838, pet. under 1 Vict. c. 10,
 admitted to bail and pardoned, on giving security to keep the peace, &c.
 Gideon Vernon, laborer, Dec. 13, 1837, Feb. 23, 1838, ditto ditto ditto.
 Isaac Masterson, laborer, Dec. 13, 1837, May 18, 1838, ditto ditto ditto.
 Weldon Hughes, laborer, Dec. 13, 1837, May 12, 1838, ditto ditto ditto.
 Abraham Musselman, yeoman, Dec. 13, 1837, Feb. 27, 1838, ditto ditto
 Peter Pence, yeoman, Dec. 13, 1837, Jan. 8, 1838, ditto ditto ditto.
 Henry Johnson, yeoman, Dec. 14, 1837, May 12, 1838, ditto ditto ditto.
 James Johnson, yeoman, Dec. 14, 1837, May 12, 1838, ditto ditto ditto.
 Joseph Johnson, yeoman, Dec. 14, 1837, April 20, 1838, ditto ditto ditto.
 John Clarke, yeoman, Dec. 14, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
 John Browne, yeoman, Dec. 14, 1837, pet. under 1 Vict. c. 10, ban. from Prov.
 Hugh D. Wilson, yeoman, Dec. 14, 1837, Oct., 1838, pet. under 1 Vict. c. 10,
 pardoned, on giving security to keep the peace, and be of good b. for 3 years.
 John D. Wilson, yeoman, Dec. 14, 1837, May 12, 1838, pet. under 1 Vict. c. 10,
 discharged by commission after examination.

- Wm. Brougham, yeoman, Dec. 14, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 Peter Grant, yeoman, Dec. 14, 1837, Dec. 19, 1837, n. t., dis. by com. after ex.
 Joseph Millburn, yeoman, Dec. 14, 1837, Oct., 1838, pet. under 1 Vict. c. 10,
 pardoned, on finding security to keep the peace, and be of good b. for 3 years.
 David Dean, yeoman, Dec. 14, 1837, Dec. 23, 1837, n. t., dis. by com. after ex.
 Peter Munro, yeoman, Dec. 14, 1837, Dec. 23, 1837, n. t., dis. by com. after ex.
 Samuel Munro, yeoman, Dec. 14, 1837, Dec. 27, 1837, n. t., dis. by com. after ex.
 John McKay, yeoman, Dec. 14, 1837, Dec. 26, 1837, n. t., dis. by com. after ex.
 Peter Matthews, yeoman, Dec. 14, 1837, s. oy. and ter., guilty, exe. April 12, 1838.
 John Stewart, yeoman, Dec. 14, 1837, pet. under 1 Vict. c. 10, sentenced to
 transportation, but escaped from Fort Henry, Kingston.
 John Wilkie, laborer, Dec. 14, 1837, Oct. 1838, pet. under 1 Vict. c. 10, par-
 doned, on finding security to keep the peace, and be of good b. for 3 years.
 Reuben Lundy, laborer, Dec. 14, 1837, May 12, 1838, ditto ditto ditto.
 Emanuel Doner, laborer, Dec. 15, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 Joseph Doner, laborer, Dec. 15, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 John Sheppard, laborer, Dec. 15, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 Jacob Troyer, laborer, Dec. 15, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
 David Blair, laborer, Dec. 15, 1837, Dec. 21, 1837, n. t. dis. by com. after ex.
 L. S. W. Richardson, laborer, Dec. 15, 1837, Jan. 21, 1838, n. t., dis. by c. af. ex.
 Geo. Robinson, laborer, Dec. 15, 1837, Dec. 19, 1837, n. t., dis. by com af. ex.
 Benj. Winhup, laborer, Dec. 15, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 Thomas Wilson, laborer, Dec. 15, 1837, Oct., 1838, pet. under 1 Vict. c. 10,
 pardoned, on finding security to keep the peace, and be of good b. for 3 years.
 David Porter, yeoman, Dec. 15, 1837, ditto ditto ditto.
 W. G. Edmonstone, teacher, Dec. 15, 1837, July 12, 1838, ditto ditto.
 George Holborn, laborer, Dec. 15, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 Geo. Lamb, laborer, Dec. 15, 1837, pet. under 1 Vict. c. 10, sent to penitentiary,
 at Kingston, for three years, and then to be banished from the Prov. for life.
 Townsend Wixon, laborer, Dec. 15, 1837, May 20, 1838, pet. under 1 Vict. c. 10,
 pardoned, on finding security to keep the peace and be of good b. for 3 years.
 Silas Bardwell, laborer, Dec. 15, 1837, pet. under 1 Vict. c. 10, ban. from Prov.
 Colin Scott, laborer, Dec. 15, 1837, pet. under 1 Vict. c. 10, sent to penitentiary,
 at Kingston, for three years, and then banished from the Province for life.
 John Gibson, laborer, Dec. 15, 1837, July 31, 1838, pet. under 1 Vict. c. 10,
 pardoned, on finding security to keep the peace, and be of good b. for 3 years.
 Hasel H. Scott, laborer, Dec. 15, 1837, July 13, 1838, ditto ditto ditto.
 Hiram Matthews, Dec. 15, 1837, May 16, 1838, ditto ditto ditto.
 Russel Baker, laborer, Dec. 15, 1837, May 22, 1838, ditto ditto ditto.
 John Prout, laborer, Dec. 15, 1837, May 12, 1838, ditto ditto ditto.
 Charles Crocker, laborer, Dec. 15, 1837, May 12, 1838, ditto ditto ditto.
 Gilbert F. Morden, shoemaker, Dec. 15, 1837, special oy. and ter., guilty, sen-
 tenced to transportation, but escaped from Fort Henry, Kingston.

- James McQueen, laborer, Dec. 15, 1837, Dec. 17, 1837, n. t., dis. by com. af. ex.
- Michael Sheppard, yeoman, Dec. 15, 1837, pet. under 1 Vict. c. 10, sentenced to transportation, but escaped from Fort Henry, Kingston.
- Thomas Sheppard, Dec. 15, 1837, ditto ditto ditto.
- Robert Walker, blacksmith, Dec. 15, 1837, pet. under 1 Vict. c. 10, transportation for life to Van Diemen's Land.
- Joseph Clarkson, laborer, Dec. 15, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.
- Arthur Squires, laborer, Dec. 15, 1837, Dec. 23, 1837, n. t., dis. by com. after ex.
- John McDougall, laborer, Dec. 15, 1837, Apr. 17, 1838, sp.oyer and term., ac.
- Peter Rush, laborer, Dec. 16, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
- Wm. Wilson, laborer, Dec. 16, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.
- Jacob Kirty, laborer, Dec. 16, 1837, Dec. 19, 1837, n. t., dis. by com. af. ex.
- Adam Rupert, laborer, Dec. 16, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
- Adam Scott, laborer, Dec. 15, 1837, Jan. 10, 1838, n. t., dis. by com. after ex.
- William Stockdale, laborer, Dec. 16, 1837, pet. under 1 Vict. c. 10. sentenced to transportation; escaped from Fort Henry, Kingston, but retaken, and not yet removed out of the country.
- George Bolton, laborer, Dec. 16, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.
- John Mitchell, laborer, Dec. 16, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.
- James Harman, laborer, Dec. 16, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.
- John G. Parker, laborer, Dec. 5, 1837, pet. under 1 Vict. c. 10. transportation for life to Van Diemen's Land.
- Samuel Waford, laborer, Dec. 13, 1837, Dec. 17, 1837, n. t., dis. by com. af. ex.
- Adam Baird, laborer, Dec. 17, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
- Asa Wixon, laborer, Dec. 17, 1837, pet. under 1 Vict. c. 10, banished from the Province.
- Charles Low, laborer, Dec. 17, 1837, July 13, 1838, pet. under 1 Vict. c. 10. pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Solomon Sly, laborer, Dec. 17, 1837, ditto ditto ditto.
- Joel Wixon, laborer, Dec. 17, 1837, pet. under 1 Vict. c. 10, ban. from the Prov.
- John Hill, laborer, Dec. 17, 1837, ditto ditto ditto.
- Andrew Hill, laborer, Dec. 17, 1837, May 12, 1838, pet. under 1 Vict. c. 10. pardoned on finding security to keep the peace, and be of good b. for 3 years.
- William Wilson, laborer, Dec. 17, 1837, April 12, 1838, pet. under 1 Vict. c. 10., pardoned on security to keep the peace and be of good behavior for 3 years. William Wilson died in the hospital.
- Abraham Wilson, laborer, Dec. 17, 1837, May 16, 1838, pet., under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3, years.
- Sampson Harris, laborer, Dec. 17, 1837, July 27, 1838, n. t., ad. to b. on his rec.
- Patrick Garry, laborer, Dec. 17, 1837, Dec. 19, 1837, n. t., dis. by com. af. ex.
- John Marr, laborer, Dec. 17, 1837, pet. under 1 Vict. c. 10. ordered for transportation, but escaped from Fort Henry, Kingston.
- Thos. Wilson, laborer, Dec. 17, 1837, Dec. 17, 1837, n. t., dis. by com. af. ex.

- Robert Berrie, laborer, Dec. 17, 1837, May 12, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Joseph Elthorp, yeoman, Dec. 17, 1837, Dec. 26, 1837, n. t., dis. by com. af. ex.
- John Graham, yeoman, Dec. 17, 1838, May 12, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- William Bently, yeoman, Dec. 17, 1837, Dec. 26, 1837, n. t., dis. by com. af. ex.
- Geo. S. Yeomens, yeoman, Dec. 17, 1837, Dec. 26, 1837, n. t., dis. by com. af. ex.
- Wm. Graham, laborer, Dec. 17, 1837, Dec. 26, 1837, n. t., dis. by com. af. ex.
- Nelson Flanagan, laborer, Dec. 17, 1837, Dec. 26, 1837, n. t., dis. by com. af. ex.
- J. Matthews, laborer, Dec. 27, 1837, May 16, 1838, pet. under 1 Vict. c. 10., pardoned on finding security to keep the peace, and be of good b. for 3 years.
- Henry Weaver, laborer, Dec. 17, 1837, May 20, 1838, ditto ditto ditto.
- George Barclay, yeoman, Dec. 17, 1837, pet. under 1 Vict. c. 10., to be confined in penitentiary, Kingston, for three years, and then banished from the Province for life.
- Thomas Gray, yeoman, Dec. 17, 1837, Dec. 21, 1837, n. t., dis by com. af. ex.
- Wilson Read, tanner, Dec. 17, 1837, pet. under 1 Vict. c. 10, ordered for transportation, but escaped from Fort Henry, Kingston.
- John Read, tanner, Dec. 17, 1837, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good behaviour for 3 years.
- Wesley Duncan, laborer, Dec. 17, 1837, Dec 21, 1837, n. t., dis. by com. af. ex.
- John McLafferty, artist, Dec. 17, 1837, May 22, 1838, n. t. ad. to b. on his rec.
- John Devins, yeoman, Dec. 17, 1837, pet. under 1 Vict. c. 10., pardoned on finding security to keep the peace, and be of good b. for 3 years.
- Thomas Watts, yeoman, Dec. 17, 1837, ditto ditto ditto.
- Wm. Read, Jr., yeoman, Dec. 16, 1837, May 12, 1838, ditto ditto ditto.
- Thomas Wilson, yeoman, Dec. 16, 1837, May 12, 1838, ditto ditto ditto.
- George Fletcher, yeoman, Dec. 18, 1837, May 12, 1838, ditto ditto ditto.
- William Carney, laborer, Dec. 18, 1837, Dec. 23, 1837, n. t., dis. by com. af. ex.
- Nelson Carver, laborer, Dec. 18, 1837, May 18, 1838, pet. under 1 Vict. c. 10. pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Joseph Noble, laborer, Dec. 18, 1837. Dec. 26, 1737, n. t., dis. by com. af. ex.
- Charles Doan, laborer, Dec. 18, 1837, May 10, 1838, pet. under 1 Vict. c. 10. pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Randal Wixon, yeoman, Dec. 18, 1837, pet. under 1 Vict. c. 10., transportation to Van Diemen's Land for fourteen years.
- William Hill, tanner, Dec. 19, 1837, May 12, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years
- Eli Irwin, yeoman, Dec. 19, 1837, May 12, 1838, ditto ditto ditto
- Francis Robbins, yeoman, Dec. 19, 1837, pet. under 1 Vict. c. 10. to be confined in the penitentiary for three years, and then banished from the Prov. for life.
- Jesse Doan, yeoman, Dec. 19, 1837, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.

- Dougal Campbell, yeoman, Dec. 17, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 Donald Campbell, yeoman, Dec. 17, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 John Campbell, yeoman, Dec. 17, 1837, Dec. 21, 1837, n. t., dis. by com. af. ex.
 Adam Graham, yeoman, Dec. 20, 1837, May 12, 1838, pet. under 1 Vict. c 10,
 pardoned, on finding security to keep the peace, and be of good b. for 3 years
 Luther Elton, tailor, Dec. 20, 1837, pet. under 1 Vict. c. 10, sent to the peni-
 tentiary for three years, and then banished from the Province for life.
 Joseph Watson, carpenter, Dec. 20, 1837, ditto ditto ditto
 Andrew Rowand, laborer, Dec. 20, 1837, July 13, 1838, pet. under 1 Vict. c. 10,
 pardoned, on finding security to keep the peace, and be of good b. for 3 years.
 Joseph Brammer, laborer, Dec. 20, 1837, May 12, 1838, ditto ditto ditto.
 Frs. McDonald, laborer, Dec. 21, 1837, Dec. 24, 1837, n. t., dis. by com. af. ex.
 W. J. Comfort, yeoman, Dec. 21, 1837, April 4, 1838, pet. under 1 Vict. c. 10.
 discharged on his own recognizances.
 Jacob Lane, yeoman, Dec. 21, 1837, Dec. 27, 1837, n. t., dis by com. af. ex.
 M. P. Empey, merchant. Dec. 22, 1837, Feb. 17, 1838, pet. under 1 Vict. c.
 10, discharged on his own recognizances.
 Gerard Irwin, shoemaker, Dec. 22, 1837, May 12, 1838, pet. under 1 Vict. c.
 10, par. on finding security to keep the peace, and be of good b. for 3 years.
 William Doan, laborer, Dec. 22, 1837, May 11, 1838, ditto ditto ditto.
 Fhos. Thompson, laborer, Dec. 22, 1837, Dec. 27, 1837, n. t., dis. by com. af. ex.
 Henry Styles, laborer, Dec. 22, 1837, Dec. 29, 1837, n. t., dis. by com. after ex.
 Elisha Mitchell, laborer, Dec. 22, 1837, Dec. 27, 1837, ditto ditto.
 Ebenezer Moore, laborer, Dec. 22, 1837, Dec. 27, 1837, ditto ditto.
 Webster Stevens, laborer, Dec. 23, 1837, Dec. 29, 1838, ditto ditto.
 John Gillingham, laborer, Dec. 23, 1837, Aug. 1838, pet., under 1 Vict. c. 10,
 pardoned, on finding security to keep the peace, and be of good b. for 3 years.
 John McCormack, physician, Dec. 23, 1837, ditto ditto ditto.
 Ira Anderson, blacksmith, Dec. 6, 1837, pet. under 1 Vict. c. 10, transporta-
 tion to Van Diemen's Land for seven years.
 Jacob Lamoureux, laborer, Dec. 21, 1837, May 12, 1838, pet. under 1 Vict.
 c. 10, par. on finding security to keep the peace, and be of good b. for 3 years.
 G. G. Parker, laborer, Dec. 16, 1837, Dec. 21, 1837, n. t., dis. by com. after ex.
 Parker again arrested on Dec. 20, and discharged on the 14th of April, 1838,
 and the bill ignored by grand jury.
 James Long, laborer, Dec. 23, 1837, Dec. 27, 1837, ditto ditto ditto.
 William Curtis, laborer, Dec. 23, 1837, July 20, 1838, n. t., dis. on his own rec.
 Arch. Molloy, laborer, Dec. 24, 1837, Dec. 29, 1837, n. t., dis. by com. af. ex.
 Arthur Kelly, laborer, Dec. 25, 1837, May 12, 1838, pet. under 1 Vict. c. 10,
 pardoned, on finding security to keep the peace, and be of good b. for 3 years.
 James Keene, laborer, Dec. 25, 1837, July 13, 1838, ditto ditto ditto.
 Joseph McGrath, laborer, Dec. 25, 1837, May 12, 1838, ditto ditto ditto.
 Thomas Sly, laborer, Dec. 25, 1837, May 16, 1838, ditto ditto ditto.

- Thos. D. Morrison, physician, Dec. 16, 1837, June, 1838, spe. oy. and ter., acq.
- Charles Durand, attorney, Dec. 19, 1837, special oy. and ter., guilty, sentence of death commuted to banishment from the Province.
- James Lesslie, bookseller, Dec. 19, 1837, Dec. 19, 1837, n. t., dis. by com. af. ex.
- Lesslie, bookseller, Dec. 19, 1837, Dec. 19, 1837, n. t., dis. by com. af. ex.
- John Doel, brewer, Dec. 19, 1837, Dec. 19, 1837, n. t., dis. by com. after ex.
- Robert Johnson, laborer, Dec. 26, 1837, Feb. 9, 1838, n. t., dis. by com. af. ex.
- James Brown, laborer, Dec. 26, 1837, pet. under 1 Vict. c. 10, transportation for seven years to Van Diemen's Land.
- Asher Wilson, laborer, Dec. 26, 1837, April 20, 1838, n. t., discharged by special commission of oyer and terminer.
- Louis Terry, laborer, Dec. 27, 1837, Dec. 31, 1837, n. t., dis. by com. after ex.
- Robert Taylor, laborer, Dec. 27, 1837, May, 12, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Thos. Hill, laborer, Dec. 27, 1837, Feb. 27, 1838, n. t., sent to hospital and died.
- John Rummerfeldt, laborer, Dec. 28, 1837, pet. under 1 Vict. c. 10, sent to penitentiary, at Kingston, for 3 years, and then to be ban. from the Prov. for life.
- John P. Plank, laborer, Dec. 23, 1837, Dec. 29, 1837, n. t., dis. by com. after ex.
- William Kilburn, laborer, Dec. 29, 1837, May 12, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- George Wright, laborer, Dec. 30, 1837, Jan. 2, 1838, n. t., dis. by com. after ex.
- C. C. Scott, laborer, Dec. 30, 1837, pet. under 1 Vict. c. 10, sent to penitentiary, at Kingston, for three years, and then banished from the Province for life.
- Abraham Faulkner, laborer, Dec. 30, 1837, Jan. 2, 1838, n. t., dis. by c. af. ex.
- Thos. Sherrard, laborer, Dec. 30, 1837, Jan. 2, 1838, n. t., dis. by com. after ex.
- Joshua Haskill, laborer, Dec. 30, 1837, July 28, 1838, n. t. dis. by on his recog.
- Joseph Martin, laborer, Dec. 30, 1837, Jan. 25, 1838, n. t., dis. by com. af. ex.
- Charles Rayner, laborer, Dec. 30, 1837, Jan. 3, 1838, n. t., dis. by com. af. ex.
- Abraham Anderson, laborer, Dec. 30, 1837, Jan. 2, 1838, n. t., dis. by c. af. ex.
- Joshua Wixon, laborer, Dec. 30, 1837, Jan. 2, 1838, n. t., dis. by com. after ex.
- James Kane, laborer, Dec. 30, 1837, May 12, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- James Barry, laborer, Dec. 30, 1837, Jan. 2, 1838, n. t., dis. by com. after ex.
- John Wilkie, (2d), blacksmith, Dec. 30, 1837, May 12, 1838, pet. under 1 Vict. c. 10, par., on finding security to keep the peace, and be of good b. for 3 years.
- Peter Grant, (2d), laborer, Dec. 30, 1837, Jan. 30, 1838, n. t., sent to hos. and died.
- Burton Attwell, laborer, Dec. 30, 1837, Jan. 4, 1838, n. t., dis. by com. af. ex.
- John P. Cherry teacher, Dec. 30, 1837, April 14, 1838, bill ig., dis. by court.
- John Plank, laborer, Dec. 29, 1837, Jan. 2, 1838, n. t., dis. by com. after ex.
- R. S. Smith, laborer, Dec. 10, 1837, Jan. 2, 1838, n. t., dis. by com. after ex.
- Lazarus Ellis, laborer, Dec. 13, 1837, Jan. 2, 1838, n. t., dis. by com. after. ex.
- Jonathan Doan, laborer, Dec. 22, 1837, Jan. 28, 1838, n. t., dis. on his recog.
- Lucius C. Thomas, laborer, Jan. 2, 1838, Jan. 4, 1838, n. t., dis. by com. af. ex.

- Eber Thomas, laborer, Jan. 2, 1838, Jan. 4, 1838, n. t., dis. by com. after ex.
 Elias Crery, laborer, Jan. 2, 1838, Jan. 4, 1838, n. t., dis. by com. after ex.
 Royal Hopkins, laborer, Jan. 2, 1838, Jan. 4, 1838, n. t., dis. by com. after ex.
 Timothy Doyle, laborer, Jan. 5, 1838, Jan. 11, 1838, n. t., dis. by com. after ex.
 Alex. Cluny, laborer, Jan. 5, 1838, Jan. 7, 1838, n. t., dis. by com. after ex.
 D. Hutchinson, laborer, Jan. 6, 1838, Feb. 3, 1838, n. t., dis. by com. after ex.
 Michael Corrigan, laborer, Jan. 6, 1838, May 12, 1838, pet. under 1 Vict. c. 10,
 pardoned, on finding security to keep the peace, and be of good b. for 3 years.
 John Haling, laborer, Jan. 6, 1838, pet. under 1 Vict. c. 10, ban. from the Prov.
 John Doyle, laborer, Jan. 6, 1838, Jan. 11, 1838, n. t., dis. by com. after ex.
 John McAnany, laborer, Jan. 6, 1838, Jan. 11, 1838, n. t., dis. by com. af. ex.
 James McGuire, laborer, Jan. 6, 1838, May 12, 1838, pet. under 1 Vict. c. 10,
 pardoned, on finding security to keep the peace, and be of good b. for 3 years.
 James Parker, laborer, Jan. 6, 1838, Feb. 25, 1838, n. t., dis. by com. after ex.
 Donald Cameron, laborer, Jan. 11, 1838, May 10, 1838, spe. oy. and ter., acq.
 Ewen Cameron, laborer, Jan. 11, 1838, Jan. 12, 1838, n. t., dis. by com. af. ex.
 John Cameron, laborer, Jan. 11, 1838, Jan. 12, 1838, n. t., dis. by com. af. ex.
 Dnncan McNab, laborer, Jan. 11, 1838, Jan. 14, 1838, n. t., dis. by com. af. ex.
 Charles Axtell, laborer, Jan. 11, 1838, Jan. 14, 1838, n. t., dis. by com. af. ex.
 J. F. Farley, laborer, Jan. 13, 1838, Jan. 16, 1838, n. t., dis. by com. af. ex.
 Gilbert Decker, laborer, Jan. 13, 1838, Jan. 30, 1838, n. t., admitted to bail.
 Thomas Elliott, innkeeper, Jan. 7, 1838, Jan. 15, 1838, n. t., admitted to bail;
 first confined in Hamilton, Gore District, December 23, 1837.
 William Carroll, yeoman, Jan. 7, 1838, Jan. 15, 1838, ditto ditto ditto.
 Jas. McDonald, laborer, Jan. 13, 1838, Jan. 16, 1838, n. t., dis. by com. af. ex.
 Isaac Moins, laborer, Jan. 13, 1838, Jan. 16, 1838, n. t., dis. by com. af. ex.
 John Houck, laborer, Jan. 13, 1838, Jan. 16, 1838, n. t., dis. by com. after ex.
 Matthew Hayes, laborer, Jan. 18, 1838, July 25, 1838, n. t., dis. on his recog.
 Samuel Lount, blacksmith, Jan. 18, 1838, spe. oy. and ter., guilty, executed
 April 12, 1838.
 James Murray, laborer, Jan. 15, 1838, May 18, 1838, n. t., dis. by com. af. ex.
 Martin Smith, laborer, Jan. 16, 1838, Feb. 27, 1838, n. t., dis. by com. af. ex.
 Henry McGarry, laborer, Jan. 18, 1838, April 20, 1838, spe. oy. and ter., acq.
 Jas. Edmonstone, laborer, Jan. 21, 1838, Jan. 24, 1838, n. t., dis. on his recog.
 W. Brewer, laborer, Jan. 21, 1838, Jan. 22, 1838, n. t., dis. by Mayor of Toronto.
 Terence Fergusson, laborer, Jan. 21, 1838, Jan. 22, 1838, n. t., ditto ditto.
 Peter McConville, laborer, Jan. 23, 1838, Jan. 26, 1838, n. t., ditto ditto.
 John Hawkes, laborer, Jan. 23, 1838, Jan. 26, 1838, n. t., ditto ditto.
 John Kline, laborer, Jan. 24, 1838, March 29, 1838, n. t., dis. by com. af. ex.
 Michael Flood, laborer, Jan. 24, 1838, Jan. 27, 1838, n. t., dis. by com. af. ex.
 Wm. Irwin, laborer, Jan. 24, 1838, Jan. 27, 1838, n. t., dis. by com. after ex.
 James McIsaac, laborer, Jan. 24, 1838, Jan. 30, 1838, n. t., dis. by com. af. ex.
 Dennis Leahy, laborer, Jan. 24, 1838, Jan. 30, 1838, n. t., dis. by com. af. ex.

- Dennis O'Connor, laborer, Jan. 24, 1838, Jan. 28, 1838, n. t., dis. by cor. af. ex.
- John Condon, laborer, Jan. 24, 1838, Jan. 30, 1838, n. t., dis. by com. after ex.
- John Keane, laborer, Jan. 24, 1838, Jan. 30, 1838, n. t., dis. by com. after ex.
- Patrick Condon, laborer, Jan. 24, 1838, Jan. 27, 1838, n. t., dis. by com. af. ex.
- John O'Brien, laborer, Jan. 24, 1838, Jan. 30, 1838, n. t., dis. by com. after ex.
- James Keane, laborer, Jan. 24, 1838, Jan. 30, 1830, n. t., dis. by com. after ex.
- Jeremiah C. Chapin, laborer, Jan. 25, 1838, April 20, 1838, no b., dis. by court.
- William Shaw, laborer, Jan. 26, 1838, Jan. 30, 1838, n. t., dis. by com. af. ex.
- Ewen Cameron, laborer, Jan. 29, 1838, May 10, 1838, n. t., dis. by com. af. ex.
- Edward A. Theller, surgeon, taken in the schooner Anne, in Jan. 1838, at Amherstburgh, spe. oy. and ter., guilty, sentence^d to death. Commuted to transportation for life. Escaped from Cape Diamond, Quebec.
- Stephen P. Brophy, civil engineer, taken in the schooner Anne, in Jan., 1838, at Amherstburgh.. pet. under 1 Vict. c. 10, ordered for transportation, but escaped from Fort Henry, Kingston.
- Claude Campeau, yeoman, taken in the schooner Anne, in Jan., 1838, at Amherstburgh, May 30, 1838, pet. under 1 Vict. c. 10, pardoned by Lieutenant Governor, and sent back to the United States.
- Augustus D. Berdeneau, mariner, taken in the schooner Anne, in Jan., 1838, at Amherstburgh, May 30, 1838, pet. under 1 Vict. c. 10, pardoned by the Lieutenant Governor, and sent back to the United States.
- Francis St. Augustin, laborer, taken in the schooner Anne, in Jan., 1838, at Amherstburgh, May 30, 1838, pet. under 1 Vict. c. 10, pardoned by the Lieutenant Governor, and sent back to the United States.
- Henry Johnston, laborer, taken in the schooner Anne, in Jan., 1838, at Amherstburgh, May 30, 1838, pet. under 1 Vict. c. 10, pardoned by the Lieutenant Governor, and sent back to the United States.
- Abram W. Partridge, laborer, taken in the schooner Anne, in Jan., 1838, at Amherstburgh, pet. under 1 Vict. c. 10, sent to Kingston, and still in custody.
- Theron Culver, painter, taken in the schooner Anne, in Jan., 1838, at Amherstburgh, pet. under 1 Vict. c. 10, sent to Kingston, and still in custody.
- Louis Lenoux, laborer, taken in the schooner Anne, in Jan., 1838, at Amherstburgh, May 30, 1838, n. t., par. by Leut. Gov. and sent back to U. S.
- Francis Clutier, laborer, taken in the schooner Anne, in Jan., 1838, at Amherstburgh, May 30, 1838, n. t., par. by Lieut. Gov., and sent back to U. S.
- Benjamin F. Pow, laborer, taken in the schooner Anne, in Jan., 1838, at Amherstburgh, May 30, 1838, n. t., sent to Quebec, and still in custody.
- Henry L. Hull, laborer, taken in the schooner Anne, in Jan., 1838, at Amherstburgh. n. t., par. Lieut. Gov., and sent back to the United States.
- George Davis, laborer, taken in the schooner Anne, in Jan., 1838, at Amherstburgh, May 30, 1838, n. t., par. by Lieut. Gov., and sent back to the U. S.
- Walter Chase, laborer, taken in the sch. Anne, in Jan. 1838, at Amherstburgh, pet. under 1 Vict. c. 10. ord. for transp, but es. from Ft. Henry, Kingston.

Squire Thayer, aborer, taken in the schooner Anne, in Jan. 1838, at Amherstburgh, n. t., sent to Quebec, and still in custody.

Nathaniel Smith, laborer, ditto ditto ditto.

W. W. Dodge, merchant, taken in the schooner Anne, Jan., 1838, at Amherstburgh, pet. under 1 Vict. c. 10, sent to Quebec, and escaped from thence.

Chancey Parker, laborer, Jan. 30, 1838, pet. under 1 Vict. c. 10, sent to Quebec, and still in custody.

William Ketchum, tanner, Feb. 7, 1838, Feb. 8, 1838, n. t., admitted to bail. Absconded, but subsequently pardoned.

Aaron Freele, laborer, Feb. 2, 1838, May 16, 1838, pet. under 1 Vict. c. 10 discharged on finding security to keep the peace, and be of good b. for 3 years.

Thos. Tracy, laborer, Feb. 4, 1838, pet. under 1 Vict. c. 10, ordered for transportation, but escaped from Fort Henry, Kingston.

Chancey Hawley, laborer, Feb. 10, 1838, Feb. 15, 1838, n. t., dis. on bail.

John Robinson, laborer, Feb. 21, 1838, pet. under 1 Vict. c. 10. to be confined in the penitentiary, Kingston, for three years, and then banished from the Province for life.

Edward Keays, laborer, Jan. 24, 1838, May 22, 1838, n. t., discharged on bail.

Simon Servos, laborer, Jan. 24, 1838, July 27, 1838, n. t., dis. on his own rec.

Joseph Wixon, laborer, Feb. 27, 1838, May 12, 1838, n. t., bill ignored by the grand jury.

R. A. Parker, merchant, Feb. 24, 1830, April 24, 1838, n. t., dis. on bail.

Joseph Earl, laborer, Feb. 28, 1838, Apr. 5, 1838, pet. under 1 Vict. c. 10, discharged on bail.

Francis Clarkson, laborer, March 1, 1838, May 14, 1838, pet. under 1 Vict. c. 10. discharged on bail.

Hugh Carmichael, merchant, Mar. 4, 1838, April 24, 1838, n. t., dis. by com. on bail after examination.

Jesse Cleaver, laborer, Mar. 5, 1838, pet. under 1 Vict. c. 10, ban. from Prov.

Wm. Delancy, laborer, Mar. 5, 1838, Mar. 5, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years

Titus Root, laborer, March 8, 1838, May 3, 1838, ditto ditto ditto.

Daniel Schell, laborer, Mar. 8, 1838, Oct., 1838, ditto ditto ditto.

John D. Staples, laborer, Mar. 12, 1838, pet. under 1 Vict. c. 10, to be confined in penitentiary, for three years, and then ban from the Prov. for life.

John Cane, laborer, Mar. 15, 1838, Mar. 25, 1838, n. t., dis. by com. af. ex.

Jas. Cane, laborer, Mar. 15, 1838, Mar. 25, 1838, n. t., dis. by com. after ex.

Robt. Wilson, laborer, Mar. 15, 1838, Mar. 25, 1838, n. t., dis. by com. af. ex.

Jas. Squires, laborer, Mar. 15, 1838, Mar. 25, 1838, n. t., dis. by com. af. ex.

Timothy Munro, laborer, Mar. 15, 1838, May 12, 1838, pet. under 1 Vict. c. 10, pardoned on finding security to keep the peace, and be of good behavior for three years.

Wm. Heron, laborer, Mar. 17, 1838, April 20, 1838, n. t., dis. by court, bill ig.

- Wm Carney, laborer, Mar. 19, 1838, May 12, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Peter Milne, yeoman, March 21, 1838, Oct. 1838, ditto ditto ditto.
- Edward Kennedy, laborer, Mar. 23, 1838, pet. under 1 Vict. c. 10, ordered for transportation, but escaped from Fort Henry, Kingston; first confined in Gore District, January 25.
- Jas. Hill, (2) laborer, Mar. 23, 1838, April 20, 1838, n. t., dis. by court, bill ig.
- Barthol. Plank, laborer, Mar. 24, 1838, May 12, 1838, pet. under 1 Vict. c. 10 pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- William Wilson, laborer, Feb. 24, 1838, May 12, 1838, n. t., pardoned on finding security to keep the peace, and be of good behavior for three years.
- James Yule, laborer, Feb. 25, 1838, May 18, 1838, ditto ditto ditto.
- Ira White, laborer, April 2, 1838, May 3, 1838, n. t., dis. by com. after ex.
- Zachariah Dent, tailor, Dec. 20, 1837, May 16, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- James Leland, laborer, April 14, 1838, May 18, 1838, n. t., discharged on bail.
- John Randal, laborer, April 14, 1838, May 4, 1838, n. t., dis. by com. af. ex.
- Michael McFarlane, laborer, April 14, 1838, May 17, 1838, n. t., dis. on bail.
- James Howie, laborer, April 14, 1838, May 18, 1838, n. t., dis. on bail.
- Sylvanus Spencer, laborer, taken by Colonel Price on the ice, in the Western District, in Feb., 1838, May 30, 1838, n. t., pardoned by Lieut. Governor, and sent back to the United States.
- Thos. J. Sutherland, (Gen'l) attorney, taken by Colonel Price on the ice, in the Western District, in Feb. 1838; court-martial, guilty; transportation for life, free pardon afterwards granted, on condition of finding security, &c., which not being forthcoming, he is in custody at Quebec.
- Edward Carmon, yeoman, first arrested in Dec., 1837, in the London District, and sent down to the Home District gaol for trial, in June, 1838, pet. under 1 Vict. c. 10, to be confined in the penitentiary for three years, and then banished from the Province for life.
- Horatio Fowler, yeoman, first arrested in Dec., 1837, in the London District, and sent down to the Home District gaol for trial, in June 1838, Oct., 1838, pet. under 1 Vict. c. 10., pardoned on security to keep the peace and be of good behavior for three years.
- Finlay Malcolm, yeoman, first arrested in Dec., 1837, in the London District and sent down to the Home District gaol for trial, in June, 1838, pet. under 1 Vict. c. 10., transportation to Van Diemen's Land for fourteen years.
- Joseph Hart, yeoman, first arrested in Dec., 1837, in the London District, and sent down to the Home District gaol for trial, in June, 1838, Oct. 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good behavior for three years.
- | | | | | |
|---------------------------|-------|-------|-------|--------|
| James Bell, yeoman, | ditto | ditto | ditto | ditto. |
| John Arthur Tidy, yeoman, | ditto | ditto | ditto | ditto. |

John Kelly, yeoman, first arrested in Dec., 1837, in the London District, and sent to the Home District gaol for trial, in June, 1838, July 25, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good behavior for three years.

Paul Bedford, yeoman, first arrested in Dec., 1837, in the London District, and sent down to the Home District gaol for trial, in June, 1838, pet. under 1 Vict. c. 10, transportation for life to Van Diemen's Land.

Harvey Bryant, yeoman first arrested in Dec., 1837 in the London District, and sent down to the Home District jail for trial, in June, 1838, Oct., 1838, specialoyer and terminer, guilty, sentenced to death, but pardoned, on finding security to keep the peace, and be of good behavior for three years.

Enoch Moore, yeoman, ditto ditto ditto ditto ditto.

Philip Jackson, laborer, taken prisoners at Point au Pelée, in the Western District, in Feb, 1838, still in custody.

Diogenes McKenzie, laborer, not tried, ditto ditto ditto.

Benjamin Warner, laborer, ditto ditto ditto.

Philip Brady, laborer, ditto ditto ditto.

Isaac Myers, laborer, ditto ditto ditto.

William McCarrick, laborer, ditto ditto ditto.

Samuel Woods, laborer, ditto ditto ditto.

James Mace, laborer, ditto ditto ditto.

John McIntyre, laborer, ditto ditto ditto.

William Bell, laborer, June 28, 1838, July 10, 1838, n. t., dis. by com. af. ex.

Joan McLeod, laborer, June 28, 1838, Aug. 7, 1838, n. t., dis. by com. af. ex.

Ebenezer Wilcox, laborer, first arrested in London District, in 1837, Oct. 1838 specialoyer and terminer, guilty, pardoned, on finding security to keep the peace, and be of good behavior for three years.

Robert Cook, yeoman, ditto ditto ditto ditto ditto.

Alvaro Ladd, yeoman, ditto ditto ditto ditto ditto.

NIAGARA DISTRICT.

Ira Smith, gunsmith, Dec. 18, 1837, Jan. 1, 1838, n. t., dis. on bail for good b.

Thos. Higgins, wheelwright, Dec. 19, 1837, Jan. 10, 1838, ditto ditto.

Fisher Hanagan, laborer, Dec. 19, 1837, Jan. 10, 1838, ditto ditto.

William Law, printer, Dec. 26, 1837, Feb. 2, 1838, ditto ditto.

Samuel Chandler, wagon maker, June 25, 1838, civil court, guilty, prisoners taken at the Short Hills, having invaded the Province from the United States; sentence of death commuted to transportation for life.

Norman Mallory, laborer, June 25, 1838, ditto ditto ditto.

James Waggoner, farmer, June 25, 1838, ditto ditto ditto.

Benjamin Waite, clerk, June 25, 1838, ditto ditto ditto.

Solomon Camp, shoemaker, June 25, 1838, Aug., 1838, civil court, acquitted.

- John Grant, wheelwright, June 25, 1838, civil court, guilty, Short Hill prisoner; sentence of death commuted to transportation for life.
- Edward Seymour, laborer, June 25, 1838, Aug., 1838, civil court, acquitted.
- John J. McNulty, carpenter, June 25, 1838, civil court, guilty, Short Hill prisoner; sentence of death commuted to transportation for life.
- Garret Van Camp, laborer, June 25, 1838, ditto ditto ditto.
- James Gammell, laborer, June 26, 1838, ditto ditto ditto.
- Murdoch McFadden, laborer, June 26, 1838, civil court, guilty, Short Hill prisoner; to be confined in the penitentiary, Kingston, for three years.
- Robert Kelly, blacksmith, June 26, 1838, July 23, 1838, n. t., bill ignored by the grand jury, discharged on bail.
- Freeman Brady, farmer, June 26, 1838, Aug., 1838, civil court, acquitted.
- Loran Hedger, blacksmith, June 26, 1838, July 23, 1838, n. t., bill ignored by the grand jury; discharged on bail.
- Street Chase, wagon maker, June 26, 1838, Aug., 1838, civil court, acquitted.
- Abraham Clarke, blacksmith, June 27, 1838, July 23, 1838, n. t., bill ignored by grand jury; discharged on bail.
- Eber Rice, innkeeper, June 27, 1838, Aug., 1838, civil court, acquitted.
- James Morrow, tanner, June 27, 1838, civil court, guilty, executed, July 30, 1838.
- David Taylor, farmer, June 27, 1838, civil court, guilty, prisoners taken at the Short Hills, having invaded the Province from the United States. Sentence of death commuted to transportation for life. (Taylor dead.)
- George Cooley, farmer, June 27, 1838, ditto ditto ditto.
- William Reynolds, saddler, June 27, 1838, ditto ditto ditto.
- George Buck, farmer, June, 1838, civil court, guilty, Short Hill prisoner, as above. Sentence of death commuted to confinement in the penitentiary for three years.
- Louis Wilson Miller, law student, June 27, 1838, civil court, guilty, Short Hill prisoner, as above. Sentence commuted to transportation for life.
- Alexander McLeod, farmer, June 28, 1838, ditto ditto ditto.
- Alexander Brady, farmer, June 30, 1838, Aug., 1838, civil court, acquitted.
- Erastus Warner, farmer, July 7, 1838, civil court, guilty, transportation to Van Diemen's Land for fourteen years.
- Stephen Hart, laborer, July 7, 1838, Aug. 1838, n. t., bill ig. by grand jury.
- James Doan, miller, July 17, 1838, n. t., bill ignored by grand jury.
- William Watson, tailor, July 17, 1838, Aug. 4, 1838, civil court, acquitted.
- John W. Brown, laborer, July 17, 1838, civil court, guilty, to be confined in the penitentiary, at Kingston, for three years.
- John Vernon, carpenter, July 17, 1838, civil court, guilty, Short Hill prisoner. Sentence of death commuted to transportation for life.
- William Yerks, carpenter, July 17, 1838, Aug. 3, 1838, civil court, acquitted.
- Samuel D. Haslip, shoemaker, July 17, 1838, Aug. 3, 1838, civil court, acquitted.

Chas. Malcolm, laborer, July 17, 1838, July 21, 1838, n. t., dis. or. bail for g. b.
 Geo. Malcolm, laborer, July 17, 1838, July 21, 1838, n. t., dis. on bail for g. b.
 Neal Brown, laborer, July 17, 1838, July 21, 1838, n. t., dis. or. bail for good b.
 Clarke Bowers, blacksmith, July 17, 1838, Aug., 1838, civil court, acquitted.
 Duncan Willson, laborer, July 20, 1838, n. t., dis. on bail for good behavior.
 Jacob R. Beamer, carpenter, July 28, 1838, civil court, guilty, Short Hill prisoner. Sentence of death commuted to transportation for life.

GORE DISTRICT:

Robt. Armstrong, blacksmith, Dec. 12, 1837, March, 1838, n. t., bill ig. by g j
 Philip Henry, yeoman, Dec. 13, 1837, Oct. 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.
 Henry Winegarden, yeoman, Dec. 15, 1837, June 6, 1838, ditto ditto.
 Robert Elliott, tanner, Dec. 15, 1837, March 15, 1838, ditto ditto.
 William Stants, yeoman, Dec. 15, 1837, March 15, 1838, n. t., no bill found.
 Abra. Vanduzen, medical quack, Dec. 15, 1837, March 20, 1838, n. t., no bill f.
 John Tulford, yeoman, Dec. 15, 1837, Oct., 1838, civil court, guilty, sentenced to death; pardoned on finding security to keep the peace, &c., for 3 years.
 Joseph Smith, yeoman, Dec. 15, 1837, March 21, 1838, n. t., no bill found.
 Peter Coon, blacksmith, Dec. 15, 1837, March 21, 1838, n. t., no bill found.
 John Whalen, laborer, Dec. 15, 1837, March 20, 1838, n. t., no bill found.
 Alonzo Foster, laborer, Dec. 15, 1837, March 20, 1838, n. t., no bill found.
 John Heap, laborer, Dec. 15, 1837, March 20, 1838, n. t., no bill found.
 John L. Uline, tanner, Dec. 15, 1837, March 21, 1838, civil court, acquitted.
 Charles P. Walrath, laborer, Dec. 15, 1837, civil court, guilty, sentence of death commuted to transportation for life. Escaped from jail.
 Isaac Edmunds, miner, Dec. 16, 1837, March 15, 1838, n. t., no bill found.
 Peter Ladon, laborer, Dec. 16, 1837, March 15, 1838, n. t., no bill found.
 John Jacklin, cordwainer, Dec. 16, 1837, March 15, 1838, n. t., no bill found.
 James Johnson, laborer, Dec. 16, 1837, March 15, 1838, n. t., no bill found.
 John Johnson, cordwainer, Dec. 16, 1837, April 2, 1838, n. t., no bill found.
 Albus Connor, laborer, Dec. 16, 1837, March 15, 1838, n. t., no bill found.
 Charles McIntosh, laborer, Dec. 16, 1837, March 15, 1838, n. t., no bill found.
 Oliver Edmonds, yeoman, Dec. 16, 1837, March 15, 1838, n. t., no bill found.
 Joseph Beemer, yeoman, Dec. 16, 1837, March 20, 1838, n. t., admitted to bail to keep the peace for one year.
 Henry Goff, teacher, Dec. 16, 1837, March 20, 1838, n. t., no bill found.
 Jonathan Bishop, laborer, Dec. 16, 1837, Feb. 17, 1838, n. t., no bill found.
 James Benham, yeoman, Dec. 16, 1837, March 28, 1838, civil court, acquitted.
 James Peters, yeoman, Dec. 16, 1837, March 28, 1838, civil court, acquitted.
 James Butchart, yeoman, Dec. 16, 1837, March 28, 1838, civil court, acquitted.
 Lyman Chapin, yeoman, Dec. 16, 1837, June 6, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.

- Dudley Newton, yeoman, Dec. 17, 1837, March 15, 1838, n. t., no bill found.
- Malcolm Brown, yeoman, Dec. 17, 1837, June 6, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Thomas Balls, laborer, Dec. 17, 1837, March 15, 1838, n. t., no bill found.
- Adam Winegarden, yeoman, Dec. 17, 1837, June 6, 1838, pet. under 1 Vict. c. 10, par. on finding security to keep the peace, and be of good b. for 3 years.
- Horatio A. Hills, laborer, Dec. 17, 1837, civil court, guilty, sentence of death, commuted to transportation for life, but died in jail.
- William Webb, yeoman, Dec. 17, 1837, Oct., 1838, civil court, guilty, pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Willard Sherman, yeoman, Dec. 17, 1837, March 28, 1838, civil court, acquitted.
- John Sherman, yeoman, Dec. 17, 1837, Dec. 18, 1838, n. t., dis. by magistrate.
- Asahel Davis, yeoman, Dec. 17, 1837, Dec. 24, 1838, n. t., dis. by magistrate.
- Gilbert Davis, yeoman, Dec. 17, 1837, Dec. 24, 1838, n. t., dis. by magistrate.
- William Lyons,* yeoman, Dec. 21, 1837, March 30, 1838, civil court, acquitted.
- William Winegarden, yeoman, Dec. 21, 1837, June 6, 1838, n. t., pardoned, on finding security to keep the peace, and be of good behavior for 3 years.
- Lord Wellington Winegarden, yeoman, Dec. 21, 1837, June 6, 1838, n. t., pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Wm. Thompson,* blacksmith, Dec. 21, 1837, Oct., 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Charles Chapin,* yeoman, Dec. 21, 1837, ditto ditto ditto.
- John Austin,* yeoman, Dec. 23, 1837, Jan. 21, 1838, n. t., discharged on bail.
- Oliver Smith, medical quack, Dec. 23, 1837, March 30, 1838, civil court, acq.
- John Van Norman, innkeeper, Dec. 23, 1837, Feb. 20, 1838, n. t., discharged on bail, and absconded.
- John Malcolm,* yeoman, Dec. 23, 1837, March 10, 1838, n. t., bill ignored.
- Isaac B. Malcolm, yeoman, Dec. 23, 1837, June 6, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Finlay Malcolm,* late member of the Provincial Parliament, Dec. 23, 1837, March 31, 1838, civil court, acquitted.
- Norman Malcolm,* son to above, Dec. 23, 1837, March 31, 1838, civil court, acq.
- Solomon Lossing, magistrate, Dec. 23, 1837, April 3, 1838, civil court, acquitted.
- Ephraim Cook, physician, Dec. 23, 1837, civil court, guilty, banished from the Province for life.
- Elias Snider,* yeoman, Dec. 23, 1837, Oct., 1838, civil court, guilty, pardoned, on finding security to keep the peace, and be of good behavior for 3 years.
- Garry V. Delong, yeoman, Dec. 23, 1837, Feb. 4, 1838, n. t., dis. on bail, and ab.
- Adam Yeigh,* yeoman, Jan. 23, 1837, March 31, 1838, civil court, acquitted.
- Nathan Town, unlicensed doctor, Dec. 24, 1837, Oct., 1838, civil court, acq., pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Robert Alway, M. P. P., Dec. 25, 1837, March 28, 1838, n. t., dis. on bail.
- Michael Showers,* yeoman, Jan. 2, 1838, March 17, 1838, n. t., bill ignored.

George Rouse, laborer, Jan. 2, 1838, March 31, 1838, civil court, acquitted.

Samuel Marlatt, yeoman, Jan. 2, 1838, March 31, 1838, civil court, acquitted.

David Ghent,* yeoman, Jan. 3, 1838, Jan. 3, 1838, n. t., discharged on bail.

John Tyler, hatter, Jan. 3, 1838, Jan. 5, 1838, n. t., dis. by the magistrate.

Thomas Sirpell, laborer, Jan. 3, 1838, Feb. 6, 1838, n. t., dis. by magistrate.

George Roberts, laborer, Jan. 3, 1838, Feb. 6, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.

Andrew Miller, land surveyor, Jan. 3, 1838, March 8, 1838, n. t., bill ignored.

Joshua Lind, land surveyor, Jan. 3, 1838, March 8, 1838, n. t., bill ignored.

Jacob Emery, laborer, Jan. 3, 1838, March 15, 1838, n. t., bill ignored.

Charles Hammond, laborer, Jan. 3, 1838, March 15, 1838, n. t., bill ignored.

Silvanus F. Wrigley, laborer, Jan. 25, 1838, March 31, 1838, n. t., dis. on bail.

James Dace, laborer, Jan. 25, 1838, Feb. 15, 1838, n. t., discharged on bail.

Aaron Glover,* yeoman, Jan. 25, 1838, Feb. 3, 1838, n. t., discharged on bail.

John Hammill, carpenter, March 9, 1838, Oct., 1838, civil court, guilty, pardoned, on finding security to keep the peace, and be of good b. for 3 years.

Duncan McPhederain, yeoman, March 9, 1838, June 6, 1838, pet. under 1 Vict. c. 10, par. on finding security to keep the peace, and be of g. b. for 3 years.

Robert Laing, yeoman, March 9, 1838, June 6, 1838, ditto ditto

Collins Skelly, yeoman, March 14, 1838, March 19, 1838, n. t., dis. by mag.

Wm. Armstrong, yeoman, Mar. 16, 1838, March 27, 1838, civil court, ac.

Calvin Lyman, yeoman, Mar. 16, 1838, March 27, 1838, civil court, acquitted.

James Parkinson, yeoman, Mar. 16, 1838, March 27, 1838, civil court, acquitted.

Hiram Dowling, yeoman, Mar. 16, 1838, March 27, 1838, civil court, acquitted.

Nathaniel Deo, yeoman, June 11, 1838, Oct., 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace and be of good b. for 3 years.

Peter Malcolm,* yeoman, Jan. 3, 1838, Oct., 1838, civil court, guilty, pardoned on finding security to keep the peace, and be of good b. for 3 years.

John Moore,* yeoman, June 11, 1838, Oct., 1838, civil court, guilty, pardoned, on finding security to keep the peace, and be of good b. for 3 years; first arrested in London District, Dec. 22, 1837.

William Sheppard, yeoman, June 25, 1838, July 17, 1838, n. t., dis. by mag.

Horace Lossing, magistrate's son, July 8, 1838, n. t., imprisoned subsequent to special assizes, and still in custody awaiting trial.

Calvin Austin, watchmaker, July 8, 1838, n. t., ditto ditto

John Fish, yeoman, July 8, 1838, ditto ditto ditto

Jesse Matthews, milwright, July 8, 1838, ditto ditto ditto.

Edy Malcolm, laborer, July 23, 1838, July 31, 1838, n. t., dis. by the mag.

Stephen Smith, yeoman, Dec. 23, 1837, Oct., 1838, civil court, guilty, pardoned on finding security to keep the peace, and be of good b. for three years.

TALBOT DISTRICT.

No prisoner confined in this district on a charge of insurrection or treason.

LONDON DISTRICT.

- Cyrus McCartney, ye man, Dec. 15, 1837, Feb. 6, 1838, n. t., dis. by the mag.
- James Canfield yeoman, Dec. 15, 1837, Jan. 4, 1838, n. t., dis. by the mag.
- Andrew Martin, yeoman, Dec. 15, 1837, Jan. 4, 1838, n. t., dis. by the mag.
- James Woods, Yeoman, Dec. 15, 1837, Oct., 1838, n. t., discharged on bail.
- Alexander Sumner, yeoman, Dec., 15, 1837, Feb. 20, 1838, n. t., dis. by the m.
- Thomas Hewman, yeoman, Dec. 15, 1837, Feb. 20, 1838, n. t., dis by the m
- Judson Sweat, yeoman, Dec. 15, 1837, Feb. 20, 1838, n. t., dis by the mag.
- John O'Gorman, yeomon, Dec. 16, 1837, Dec. 30, 1837, n. t., dis. by the mag
- Joseph Alway, yeoman, Dec. 16, 1837, Jan. 13, 1838, n. t., dis by the mag.
- Robert Cavanaugh, yeoman, Dec. 16, 1837, Oct., 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years
- Cornelius McCarty, yeoman, Dec. 16, 1837, Oct. 14, 1838, n. t., dis. by the m.
- Levi Heaton, yeoman, Dec. 16, 1837, Oct. 12, 1838, n. t., dis. by the mag
- James Waterman, yeoman, Dec. 16, 1837, Oct. 16, 1838, n. t., dis. by the m
- James Coleman, yeoman, Dec. 16, 1837, June 7, 1838, pet. under 1 Vict. c. 10. pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Benjamin Page, yeoman, Dec. 16, 1837, June 9, 1838, ditto ditto.
- George Lester, yeoman, Dec. 16, 1837, Jan. 30, 1838, n. t., dis. by the mag.
- Charles Reeves, yeoman, Dec. 17, 1837, Jan 2, 1838, n. t., dis. by the mag.
- Jacob Esmond, yeoman, Dec. 17, 1837, Jan. 2, 1838, n. t., dis. by the mag.
- James McClees, yeoman, Dec. 17, 1837, Jan. 26, 1838, n. t., dis. by the mag.
- Simon B. Moses, yeoman, Dec. 17, 1837, Jan. 26, 1838, n. t., dis. by the mag
- John B. Nichols, yeoman, Dec. 17, 1837, Jan. 2, 1838, n. t., dis. by the mag
- Peter Philip, yeoman, Dec. 17, 1837, Jan. 4, 1838, n. t., dis. by the mag.
- James Defields, yeoman, Dec. 17, 1837, Jan. 25, 1838, n. t., dis. by the mag.
- William Loup, yeoman, Dec. 17, 1837, Jan. 23, 1838, n. t., dis. by the mag.
- Robert Larraway, yeoman, Dec. 17, 1837, Jan. 16, 1838, n. t., dis. by the m.
- Tracey Congdon, yeoman, Dec. 17, 1837, Dec. 29, 1837, n. t., dis. by the mag
- Thomas Pool, yeoman, Dec. 17, 1837, Jan. 12, 1838, n. t., dis. by the mag.
- Isaac Moore, yeoman, Dec. 17, 1837, May 1, 1838, civil court, acquitted.
- Caleb Kipp, yeoman, Dec. 17, 1837, pet. under 1 Vict. c. 10, banished from the Province for life.
- George Ribble, yeoman, Dec. 17, 1837, Jan. 11, 1838, n. t. dis. by the mag.
- Robert Traney, yeoman, Dec. 17, 1837, June 7, 1838, pet. under 1 Vict. c. 10, pardoned on finding security to keep the peace, and be of good b. for 3 years.
- Henry Emigh, yeoman, Dec. 16, 1837, Dec. 29, 1837, n. t., dis. by the mag.
- Truman Sinclair, yeoman, Dec. 17, 1837, Jan. 26, 1838, n. t., dis. by the mag.
- Robert Farr, yeoman, Dec 17, 1837, Dec. 19, 1837, n. t., dis. by the magistrate.
- Dennis Cavanaugh, yeoman, Dec. 17, 1837, June 7, 1838, pet. under 1 Vict. c. 10, pardoned on finding security to keep the peace, and be of good behavior for three years.

- John H. Carr, yeoman, Jan. 1, 1838, Jan. 17, 1838, n. t., dis. by the mag.
- Sheldon Sweet, yeoman, Dec. 17, 1837, Jan. 18, 1838, n. t. dis. by the mag.
- Mark Hogle, yeoman, Dec. 17, 1837, Jan. 18, 1838, n. t., dis. by the mag.
- Charles Christie, yeoman, Dec. 17, 1837, Jan. 18, 1838, n. t., dis. by the mag.
- James Oswould, yeoman, Dec. 17, 1837, Jan. 18, 1838, n. t., dis. by the mag.
- Thomas Headman, yeoman, Dec. 17, 1837, Jan. 18, 1838, n. t., dis. by the m.
- Charles Coonrod, yeoman, Dec. 17, 1837, Jan. 18, 1838, n. t., dis. by the mag.
- John James Jolly, yeoman, Dec. 17, 1837, Jan. 12, 1838, n. t., dis. by the m.
- John McCarren, yeoman, Dec. 17, 1837, Jan. 17, 1838, n. t., dis. by the mag.
- Egbert Hellaker, yeoman, Dec. 17, 1837, Jan. 18, 1838, n. t., dis. by the mag.
- Luke Hogle, yeoman, Dec. 17, 1837, Jan. 13, 1838, n. t., dis. by the mag.
- Moses Cook, yeoman, Dec. 17, 1837, June 7, 1838, pet. under 1 Vict. c. 10, par., on finding security to keep the peace, and be of good behavior for 3 yrs.
- William Norton, yeoman, Dec. 17, 1837, Jan. 26, 1838, n. t., dis. by the mag.
- John Medcalf, yeoman, Dec. 18, 1837, June 9, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 yrs.
- Josiah Woodhull, yeoman, Dec. 18, 1837, Dec. 25, 1837, n. t., dis. by the mag.
- Matthew Berry, yeoman, Dec. 18, 1837, Jan. 6, 1838, n. t., dis. by the mag.
- William Cheeseman, yeoman, Dec. 18, 1837, June 9, 1838, pet. under 1 Vict. c. 10, par on finding security to keep the peace, and be of good b. for 3 yrs.
- John Legg, yeoman, Dec. 18, 1837, Jan. 24, 1838, n. t., discharged on bail.
- Moore Stephens, yeoman, Dec. 19, 1837, May 7, 1838, civil court, acquitted.
- William Lymburner, yeoman, Dec. 20, 1837, Feb. 14, 1838, n. t., dis. by mag.
- Wm. Watterworth, yeoman, Dec. 20, 1837, Jan. 22, 1838, n. t., dis. by the mag.
- Joseph J. Lancaster, yeoman, Dec. 20, 1837, Jan. 6, 1838, n. t., dis. on bail to appear as a witness.
- David Curtis, yeoman, Dec. 20, 1837, Jan. 26, 1838, n. t., dis. by the mag.
- Andrew McLean, yeoman, Dec. 20, 1837, Jan. 1, 1838, n. t., dis. by the mag.
- Alfred Adkins, yeoman, Dec. 20, 1837, Jan. 15, 1838, n. t., dis. on bail.
- Lyman Davis, yeoman, Dec. 20, 1837, Jan. 15, 1838, n. t., absconded.
- Solomon Sherrick, yeoman, Dec. 20, 1837, Jan. 18, 1838, n. t., dis. on bail.
- Nelson Leach, yeoman, Dec. 20, 1837, Jan. 17, 1838, pet. under 1 Vict. c. 10, par. on finding security to keep the peace, and be of good behavior for 3 years.
- Sobeisca Brown, yeoman, Dec. 20, 1837, Jan. 5, 1838, n. t., dis. on bail.
- William Storey, yeoman, Dec. 20, 1837, Jan. 2, 1838 n. t. dis. by the mag.
- Jonathan Steel, yeoman, Dec. 20, 1837, Oct., 1838, pet. under 1 Vict. c. 10. pardoned on finding security to keep the peace and be of good b. for 3 years.
- Losee Denton, yeoman, Dec. 20, 1837, June. 9, 1838, ditto ditto ditto.
- Joseph Moore, yeoman, Dec. 20, 1837, Jan. 20, 1838, n. t., dis. by the mag.
- Isaac Phillips, yeoman, Dec. 20, 1837, Jan. 4, 1838, n. t., dis. by the mag.
- Andrew Connors, yeoman, Dec. 20, 1837, June 12, 1838, pet. under 1 Vict. c. 10, pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Lymanteus Chapel, yeoman, Dec. 20, 1837, Jan. 9, 1838, n. t., dis. by the mag.

- Thomas Hall, yeoman, Dec. 20, 1837, Jan. 12, 1838, n. t., dis. by the mag.
- John Kenny, yeoman, Dec. 20, 1837, Dec. 23, 1838, n. t., dis. by the mag
- Enoch D. Doxie, yeoman, Dec. 20, 1837, Oct., 1838, n. t., discharged on bail
to keep the peace, and be of good behavior for three years.
- John Parker, yeoman, Dec. 21, 1837, Feb. 6, 1838, n. t., dis. by the magistrate
- Josiah Wood, yeoman, Dec. 21, 1837, Jan. 3, 1838, n. t., dis by the mag.
- S. Smith, yeoman, Dec., 21, 1837, Jan. 18, 1838, n. t., dis. by the magistrate.
- Archibald Olds, yeoman, Dec 21, 1837, Jan. 2, 1838, n. t., dis. by the mag.
- George Phillips yeoman, Dec 21, 1837, Feb. 1, 1838, n. t., dis by the mag
- James Nixon, yeoman, Dec. 21, 1837, Jan. 4, 1838, n. t., dis. by the mag.
- Abel Cooper, yeoman, Dec. 21, 1837, Jan. 18, 1838, n. t., discharged on bail.
- David Willson, yeoman, Dec. 26, 1837, Feb. 26, 1838, n. t., dis. by the m.
- Duncan Willson, yeoman, Dec. 30, 1837, Apr. 7, 1838, n. t., discharged on bail.
- Elias Moore, yeoman, Dec. 21, 1837, Apr. 9, 1838, n. t., discharged on bail.
- Luther Hoskins, yeoman, Dec. 21, 1837, October, 1838, pet. under 1 Vict. c. 10
pardoned, on finding security to keep the peace, and be of good b. for 3 years.
- Nathan Doan, yeoman, Feb. 17, 1838, Feb. 24, 1838, n. t., dis. by the mag.
- Alonzo Hall, yeoman, Dec. 20, 1837, Jan. 12, 1838, n. t., dis. by the mag.
- William Hall, yeoman, Dec. 15, 1837, May 2, 1838, civil court, acquitted.
- Gideon Tiffany, yeoman, Dec. 15, 1837, May 7, 1838, civil court, acquitted.
- William Putnam, yeoman, Dec. 15, 1837, May 2, 1838, civil court, acquitted.
- John Stephens, yeoman, Dec. 15, 1837, May 7, 1838, civil court, acquitted.
- James Nash, yeoman, Dec. 15, 1837, April 26, 1838, n. t. discharged on bail.
- Thomas Arker, yeoman, Dec. 15, 1837, June 19, 1838, n. t., discharged by order
of the Lieutenant Governor.
- Morey Whitney, yeoman, Dec. 15, 1837, June 1, 1838, ditto ditto.
- Charles Travers, yeoman, Dec. 16, 1837, June 1, 1838, ditto ditto.
- John Grieve, yeoman, Dec. 20, 1837, April 10, 1838, n. t., discharged on bail.
- Descom Simons, yeoman, Dec. 22, 1837, April 26, 1838, civil court, acquitted.
- Chas. Lawrence, yeoman, Dec. 19, 1837, June 11, 1838, pet. under 1 Vict. c. 10,
pardoned on finding security to keep the peace, and be of good b. for 3 years.
- Anson Gould, yeoman, Dec. 24, 1837, April 26, 1838, civil court, acquitted.
- Stephen Bronger, yeoman, Dec. 26, 1837, May 8, 1838, pet. under 1 Vict. c. 10,
pardoned, on finding security to keep the peace and be of good b. for 3 years.
- Joshua B. Moore yeoman, Dec. 25, 1837, Apr. 18, 1838, n. t., discharged by
proclamation; no bill.
- John Riley, yeoman, Dec. 30, 1837, May 9, 1838, ditto ditto.
- William Watts, yeoman, Dec. 30, 1837, May 9, 1838, pet. under 1 Vict. c. 10,
died May 5, 1838.
- Lewis Norton, yeoman, Dec. 30, 1837, pet. under 1 Vict. c. 10, banished from
the Province for life.
- James Coville, yeoman, Dec. 30, 1837, ditto ditto ditto.
- Charles Latimer, yeoman, Dec. 17, 1837, May 2, 1838, civil court, acquitted.

David Hagerman, yeoman, Dec. 18, 1837, April 30, 1838, civil court, acquitted.
 Daniel Bedford, yeoman, Dec. 18, 1837, June 9, 1838, pet. under 1 Vict. c. 10,
 pardoned, on finding security to keep the peace, and be of good b. for 3 years.
 Alexander Neilly, yeoman, Dec. 19, 1837, June 11, 1838, ditto ditto.
 Samuel Sands, yeoman, Dec. 21, 1837, June 11, 1838, ditto ditto.
 Uriah Emmons, yeoman, Dec. 21, 1837, pet. under 1 Vict. c. 10, banished from
 the Province for life.
 Lzekiel Manns, yeoman, Dec. 21, 1837, June 12, 1838, pet. under 1 Vict. c. 10,
 pardoned, on finding security to keep the peace, and be of good b. for 3 years.
 William Childs, yeoman, Dec. 21, 1837, April 18, 1838, n. t., discharged by
 proclamation; no bill.
 Abraham Sackrider, yeoman, Dec. 21, 1837, April 1, 1838, n. t., dis. by court.
 John D. Brown, yeoman, Dec. 21, 1837, May 8, 1838, civil court, acquitted.
 Stephen H. Secord, yeoman, Dec. 21, 1837, April 16, 1838, n. t., dis. on bail.
 Orlando Inglis, yeoman, Jan. 1, 1838, April 16, 1838, n. t., dis. by pro.; no bill.
 Patrick Malada, yeoman, Jan. 1, 1838, June 7, 1838, pet. under 1 Vict. c. 10,
 pardoned, on finding security to keep the peace, and be of good b. for 3 years.
 George Blake, yeoman, Jan. 1, 1838, April 16, 1838, n. t., dis. by pro.; no bill.
 Amos Bradshaw, yeoman, Jan. 1, 1838, pet. under 1 Vict. c. 10, banished from
 the Province for life.
 George Hill, yeoman, Jan. 3, 1838, ditto ditto ditto.
 Joseph Bowes, yeoman, Feb. 2, 1838, ditto ditto ditto.
 Charles Tilden, yeoman, Feb. 15, 1838, May 10, 1838, n. t., dis. on his recog.
 Andrew McLure, yeoman, April 12, 1838, June 6, 1838, pet. under 1 Vict.
 c. 10, par. on finding security to keep the peace, and be of good b. for 3 years.
 Amos B. Thomas, yeoman, June 30, 1838, July 27, 1838, n. t., dis. by mag.
 Jacob Lester, yeoman, July 1, 1838, July 15, 1838, n. t., dis. by magistrate
 Samuel Forbes, yeoman, July 1, 1838, July 15, 1838, n. t., dis. by magistrate.
 Amos Shaw, yeoman, July 1, 1838, July 25, 1838, n. t., dis. by magistrate.
 Alex. Leadbeater, yeoman, July 1, 1838, July 25, 1838, n. t., dis. by mag.
 Absalom Shaw, yeoman, July 1, 1838, July 25, 1838, n. t., dis. by magistrate.
 Wm. A. Everitt, yeoman, July 1, 1838, July 25, 1838, n. t., dis. by magistrate.
 Albert Stephens, yeoman, July 1, 1838, July 25, 1838, n. t., dis. by magistrate.
 James G. Shaw, yeoman, July 1, 1838, July 20, 1838, n. t., dis. by magistrate.
 Uriah Shaw, yeoman, July 1, 1838, July 20, 1838, n. t., dis. by magistrate.
 Robert Taylor, yeoman, July 1, 1838, July 20, 1838, n. t., dis. by magistrate.
 James Tucker, yeoman, July 1, 1837, July 20, 1838, n. t., dis. by magistrate.
 Francis Jones, yeoman, July 1, 1838, July 20, 1838, n. t., dis. by magistrate.
 Abraham Kilburn, yeoman, July 1, 1838, July 20, 1838, n. t., dis. by mag.
 David Sherman, yeoman, July 1, 1838, July 20, 1838, n. t., dis. by magistrate.
 William Day, yeoman, July 1, 1838, July 20, 1838, n. t., dis. by magistrate.
 Wm. Jackman, yeoman, July 1, 1838, July 20, 1838, n. t., dis. by magistrate.
 Jacob B. Allen, yeoman, July 4, 1838, July 5, 1838, n. t., dis. by magistrate.

Abraham Graves, yeoman, July 5, 1838, July 28, 1838, n. t., dis. by mag.
 Jacob Deo, yeoman, July 6, 1838, July 11, 1838, n. t., dis. by magistrate.
 Sylvanus Shaw, yeoman, July 13, 1838, July 20, 1838, n. t., dis. by magistrate.
 John Day, yeoman, July 13, 1838, July 20, 1838, n. t., dis. by magistrate.
 Samuel Day, yeoman, July 13, 1838, July 20, 1838, n. t., dis. by magistrate.
 John G. Wells, yeoman, July 13, 1838, July 20, 1838, n. t., dis. by magistrate.
 Otis Inglis, yeoman, July 13, 1838, July 20, 1838, n. t., dis. by magistrate.
 Jacob Aubery, yeoman, July 13, 1838, July 20, 1838, n. t., dis. by magistrate.
 William Gibson, yeoman, July 5, 1838, n. t., still in custody.
 Benjamin Hillaker, yeoman, July 7, 1838, n. t., still in custody.
 William Hallaker, yeoman, July 7, 1838, n. t., still in custody.
 John Dennis, yeoman, July 7, 1838, n. t., still in custody.
 Benjamin Smith, yeoman, July 13, 1838, n. t., still in custody.
 Pety Sullivan, yeoman, July 13, 1838, n. t., still in custody.
 Benjamin West, yeoman, July 13, 1838, n. t., still in custody.
 Henry Spencer, yeoman, July 13, 1838, July 20, 1838, n. t., dis. by magistrate.
 Isaac L. Smith, yeoman, July 13, 1838, July 20, 1838, n. t., dis. by magistrate.
 David Williams, yeoman, July 13, 1838, July 20, 1838, n. t., dis. by magistrate.
 John Long, yeoman, July 13, 1838, July 20, 1838, n. t., dis. by magistrate.
 James Lyons, yeoman, July 13, 1838, July 20, 1838, n. t., dis. by magistrate.
 Christ. Hendershot, yeoman, July 13, 1838, July 20, 1838, n. t., dis. by mag.

WESTERN DISTRICT:

Horace Cooley, farmer, June 28, 1838, n. t., still in custody.
 Charles Bourman, farmer, June 28, 1838, n. t., still in custody.
 Louis Burnham, farmer, June 28, 1838, Sept., 1838, n. t., discharged on bail.
 Orlando Boyington, farmer, June 28, 1838, Sept., 1838, n. t., dis. on bail.
 Henry B. Nugent, farmer, June 30, 1838, Sept. 1838, n. t., discharged on bail.
 Reuben Markham, farmer, Aug. 10, 1838, Sept., 1838, n. t., discharged on bail.
 Lambert Beaubien, wheelwright, July 2, 1838, Sept., 1838, n. t., dis. on bail.
 Malcolm Burnham, farmer, June 30, 1838, Sept., 1838, n. t., dis. on bail.
 James Coll, farmer, July 10, 1838, Sept., 1838, n. t., discharged on bail.
 Isaac Phillips, farmer, July 10, 1838, Sept., 1838, n. t., discharged on bail.
 William Herrington tailor, July 10, 1838, n. t., still in custody.

Besides the above, there were sixty-one persons against whom indictments were found for High Treason, but who left the Province:—

1. John Rolph, physician, Home District, Member of Provincial Parliament.
2. William Lyon Mackenzie, printer, Home District.
3. Silas Fletcher, yeoman, Home District.
4. Jacob Rymal, yeoman, Home District.

5. Richard Graham, yeoman, Home District.
6. Jeremiah Graham, yeoman, Home District.
7. John Mantack, yeoman, Home District.
8. Joseph Borden, yeoman, Home District.
9. Joshua Winn, yeoman, Home District.
10. David Gibson, surveyor, Home District, Member of Provincial Parliament.
11. Landon Wurtz, laborer, Home District.
12. James Marshall, storekeeper, Home District.
13. Alem Marr, yeoman, Home District.
14. Joseph Clarkson, yeoman, Home District.
15. Dudley Wilcox, yeoman, Home District.
16. Edmond Quirk, yeoman, Home District.
17. Thomas Brown, yeoman, Home District.
18. Levi Parsons, yeoman, Home District.
19. Jesse Loyd, yeoman, Home District.
20. Aaron Munshaw, yeoman, Home District.
21. Henry Stiles, yeoman, Home District.
22. William Fletcher, yeoman, Home District.
23. Daniel Fletcher, yeoman, Home District.
24. David McCarty, yeoman, Home District.
25. Seth McCarty, yeoman, Home District.
26. Nelson Gorham, yeoman, Home District.
27. Alexander McLeod, yeoman, Home District. Since taken at the Short Hills, sentenced to transportation for life. (See Niagara Dt., No. 28.)
28. Cornelius Willis, yeoman, Home District.
29. Erastus Clark, yeoman, Home District.
30. Charles Duncombe, M. P. P., London District, Mem. of Prov. Parliament.
31. James Dennis, yeoman, London District.
32. Eliakim Malcolm, yeoman, London District.
33. Peter Delong, yeoman, London District.
34. Orsimus B. Clark, merchant, London District.
35. Tyman Davis, laborer, London District.
36. Henry Fisher, yeoman, London District.
37. James Malcolm, yeoman, London District.
38. Pelham C. Teeple, yeoman, London District.
39. Norris Humphrey, merchant, London District.
40. Jesse Paulding, innkeeper, London District.
41. Joel P. Doan, tanner, London District.
42. Joshua G. Doan, tanner, London District. Since taken, at Sandwich, in arms.
43. John Talbot, gentleman, London District.
44. Samuel Edison, jr., innkeeper, London District.
45. Abraham Sutton, yeoman, London District.
46. Moses Chapman Nickerson, yeoman, London District.

47. George Lawton, yeoman, London District.
48. John Massacre, yeoman, London District.
49. Elisha Hall, yeoman, London District.
50. Solomon Hawes, yeoman, London District.
51. George Alexander Clark, merchant, Gore District.
52. John Vanarnam, innkeeper, Gore District.
53. Michael Marcellus Mills, merchant, Gore District.
54. George Washington Case, gentleman, Gore District.
55. Joseph Fletcher, yeoman, Gore District.
56. Angus McKenzie, yeoman, Gore District.
57. Alonzo Merriman, merchant, Niagara District.
58. Aaron Winchester, yeoman, Niagara District.
59. David Jennings, laborer, Niagara District.
60. Chester Jillet, laborer, Niagara District.
61. Thomas Lambert, laborer, Niagara District.

NUMERICAL ABSTRACT OF THE FOREGOING TABLE.

Eastern District,	—
Ottawa District,	—
Johnstown District,	8
Bathurst District,	—
Prince Edward District,	—
Midland District,	75
Newcastle District,	12
Home District,	422
Niagara District,	43
Gore District,	90
Talbot District,	—
London District,	163
Western District,	11
Persons who have absconded	61
<i>Grand Total,</i>	<u>885</u>

